

THE RUSSO-UKRAINIAN WAR: IMPLICATIONS ON THE RIGHT OF ACCESS TO SUFFICIENT FOOD IN SOUTH AFRICA

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DECLARATION

I, MAGAU LONDANI of student number 20009069, hereby declare that this mini-dissertation for Master of Laws in Human Rights titled “**THE RUSSO-UKRAINIAN WAR: IMPLICATIONS ON THE RIGHT OF ACCESS TO SUFFICIENT FOOD IN SOUTH AFRICA**” hereby submitted by me at the University of Venda, has not been submitted previously for a degree at this or any other institution and that it is my own work in design and execution, and that all reference material contained therein has been duly acknowledged.

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Dedication

I dedicate this study to my three guardian angels, whose love and support have guided me throughout my life. To my father, Magau Musiwalo Raymond, who left this world when I was young but whose legacy continues to inspire me. To my grandmother, Phophi Muthivhi, who passed away in 2021, her wisdom and kindness remain deeply etched in my heart. Most especially, I dedicate this work to my uncle, Magau Mutshinyalo Silas, whose unwavering support for my academic journey was a beacon of hope until his passing during the course of this study. His memory and the lessons he imparted will forever be cherished.

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ABSTRACT

As the Russo-Ukrainian war rages on, its effects are felt far beyond the battlefield, threatening the fundamental right of access to sufficient food in South Africa. This study analysed the adequacy of instruments for the protection of the right of access to sufficient food. The analysis includes an in-depth study of international, regional, and national legal instruments, from the Universal Declaration of Human Rights to South Africa's Constitution, legislation, and policy frameworks. Global conflicts. Calamities have demonstrated, particularly in the case of South Africa, their ability to unravel even the most well-intentioned protections. South Africa's food system, precariously balanced on about 30% import reliance, continues to teeter on the brink of crisis even at around thirty-four (34) months since the war began in February 2022. The war has laid bare the vulnerabilities created by trade liberalisation laws and policies. Trade liberalism seeks to increase interconnectedness and exportation by promoting free trade and reducing barriers, too much dependence on it leads to increased dependence on exported foods. This focus can undermine local food production, making countries more reliant on global markets. Once hailed as progressive, these frameworks now stand as potential barriers to food security in the face of global shocks such as the Russo-Ukrainian war. The study used a doctrinal research methodology, consisting of an analysis of the legal and policy landscape, including the Marketing of Agricultural Products Act 47 of 1996, the Competition Act 89 of 1998, the National Food and Nutrition Security Policy (2014) Integrated Food Security Strategy (2022), Agricultural Policy Action Plan (2015) and the Strategic Plan for South African Agriculture (2001). The study examined how legal and policy frameworks have unintentionally hindered local food production, exposing the nation to international market fluctuations. It assessed the "reasonableness" of these measures, as required by Section 27(2) of the Constitution, which mandates reasonable steps to protect the right to access sufficient food. Using Constitutional Court cases like *Grootboom* and *Mazibuko* as benchmarks, the study has shown the inadequacy of these frameworks. Drawing from international best practices in a comparative aspect from countries such as Singapore, Finland, Brazil and India, the study recommended legal and policy reforms to protect the right of access to sufficient food amid global market instability.

Keywords: Human rights, right of access to sufficient food, food security, War, Russia and Ukraine

ACRONYMS AND ABBREVIATIONS

ACHPR –	African Charter on Human and Peoples’ Rights
ACRWC –	African Charter on the Rights and Welfare of the Child
APAP –	Agricultural Policy and Action Plan
AU –	African Union
BFAP –	Bureau for Food and Agricultural Policy
CAADP –	Comprehensive Africa Agriculture Development Program
CRC	Convention on the Rights of the Child
EU –	European Union
FAO –.	Food and Agricultural Organisation
FNSS –	Food and Nutrition Security Strategy
GEAR –	Growth, Employment, and Redistribution Strategy
ICESCR – .	International Covenant on Economic, Social and Cultural Rights
IFSS – .	Integrated Food Security Strategy
MAP – .	Marketing of Agricultural Products Act
NDP –	National Development Plan
RAP –	Regional Agricultural Policy
SAHRC –	South Africa Human Rights Commission
SADC –	Southern African Development Communities
SDG – .	Sustainable Development Goals
UN –	United Nations
WFP –	World Food Program
WTO –	World Trade Organisation

Definition of key concepts

1. Human rights are the fundamental rights and freedoms inherent to all human beings, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. International law recognises and protects these rights, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). South Africa protects them in Chapter 2 of the Constitution under the Bill of Rights.
2. The right of access to sufficient food is a fundamental human right recognised by international law. It is the right of every individual to have access to enough food to meet their nutritional needs, including access to clean water, nutritionally adequate food, and a means of preserving one's food supplies. This right is enshrined in Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and is considered essential to human dignity.
3. War refers to armed conflict between nations, states, or groups characterised by using force and violence to achieve political or military objectives. War can result in significant harm to civilians, including displacement, injury, and death. The laws of war aim to regulate the conduct of war and protect civilians from the effects of armed conflict.
4. Food security is defined as “a situation that exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life.”
5. Russia and Ukraine, two countries located in Eastern Europe, with Russia being the largest country by land area and Ukraine situated to its southwest, have been in conflict since 2014, with Russia supporting separatists in Ukraine's Donbas region. In 2022, Russia invaded Ukraine, leading to intense fighting, casualties, and global implications. Complex factors drive the conflict, including sovereignty, territory, and alignment with the West or Russia.

CHAPTER 1: INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 Introduction

The African proverb “*when two elephants fight, the grass suffers*”¹ aptly describes the impact of the Russo-Ukrainian war on South Africa’s struggle to ensure sufficient food for its citizens. South Africa’s history of colonialism and apartheid has led to significant social and economic inequalities, including food insecurity. The struggle to access food remains a pervasive issue in many Sub-Saharan African countries.²

The declaration of war between Russia and Ukraine has been juxtaposed with other factors contributing to food insecurity in South Africa, such as climate change, drought, and the lingering impact of the COVID-19 pandemic.³ Global food markets have not fully recovered from the COVID-19 pandemic, which has led to the closure of a significant number of food manufacturers and the need to re-orientate economic and social infrastructures on a large scale.⁴ These existing layers of complexity in addressing food security have been further exacerbated by the war in Ukraine and Russia, disrupting global food chains and leading to increased food prices and shortages.⁵ The effect is most pronounced in the countries that rely on food imports from Russia and Ukraine, and those that source food production inputs from these two countries.⁶

The right of access to sufficient food, as enshrined in Section 27(1)(b) of the South African Constitution, guarantees that everyone has the right to sufficient food and water.⁷ This right emphasises access, which encompasses both economic and physical availability, meaning individuals must have the financial means. This means the food must be affordable to people. The right also adds the physical capability to

¹ Jeremy Seekings and Nicoli Nattrass, *Class, Race, and Inequality in South Africa* (Yale University Press 2005) 1-5.

² *ibid.*

³ Tshepo S Masipa, ‘The Impact of Climate Change on Food Security in South Africa: Current Realities and Challenges Ahead’ (2017).

⁴ *Ibid.*

⁵ Caterina Baars, ‘How the War in Ukraine Affects Food Security’ (2023) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10648107/>.

⁶ *Ibid.*

⁷ Constitution of the Republic of South Africa, 1996.

secure food.⁸ The term ‘sufficient’ indicates that the food must meet dietary needs for a healthy life.⁹ The food must be of quality, and it must at least be enough to meet one’s daily dietary needs to survive and live a healthy life. This definition includes staple foods that are needed in every household on an almost daily basis.

This right differs from the broader concept of “the right to food,” which may imply a general entitlement without a specific focus on access and sufficiency.¹⁰ Section 27(2) mandates the state to take reasonable legislative measures to fulfil this right, acknowledging resource constraints while requiring proactive steps to combat hunger and food insecurity.¹¹

South Africa’s food system is precariously balanced on about 30% import reliance.¹² The country imports a variety of food products from Russia and Ukraine. Approximately 34% of South Africa’s wheat comes from Russia and Ukraine combined, and 4% of sunflower oil is from Ukraine alone.¹³ The price of wheat and sunflower oil, which is used to make bread, an essential staple food in South Africa, has risen by over 35% from 2022 to 2024 alone.¹⁴ Additionally, the war has also disrupted the availability of fertiliser used in food production in the agricultural sector. South Africa imports around 40% of its fertilisers from Russia¹⁵ and the disruption in fertiliser distribution has led to high food production costs in South Africa and globally.¹⁶

The war has also caused an increase in the prices of oil and gas. Oil and gas have a direct impact on the price of transportation, which causes an increase in food production and food prices.¹⁷ South Africa is affected not only in terms of the foods sourced from Russia and Ukraine but also other foods such as rice and palm oil which

⁸ Nkrumah B, ‘Opening Pandora’s Box: A Legal Analysis of the Right to Food in South Africa’ (2019) 52(1) De Jure Law Journal 47-64 <https://doi.org/10.17159/2225-7160/2019/v52a3> accessed 25 May 2024.

⁹ D M Chirwa, ‘Child Poverty and Children’s Rights of Access to Food and Basic Nutrition in South Africa’ (2009) Community Law Centre <https://uwcscholar.uwc.ac.za:8443/server/api/core/bitstreams/95138da6-067e-4793-96f0-18f272310c3e/content> accessed 25 May 2024.

¹⁰ Ibid.

¹¹ The Constitution of South Africa, s 27.

¹² Centre of Excellence in Food Security, ‘Food Security in South Africa: The Impact of Global Events’ (2023) <https://foodsecurity.ac.za/publications/>.

¹³ Ibid.

¹⁴ Grain SA, ‘Oil Prices Continue to Soar’ (April 2021) <https://www.grainsa.co.za/oil-prices-continue-to-soar>.

¹⁵ Food and Agriculture Organization of the United Nations, ‘The Impact of the Ukraine Crisis on Global Food Security’ (2022) <https://www.fao.org/documents/card/en/c/cb8891en>.

¹⁶ Ibid.

¹⁷ Ibid.

South Africa imports from India, Pakistani and Vietnam.¹⁸ The prices of these commodities have risen due to the rise in transportation costs occasioned by the rise in oil and gas prices.¹⁹ Global food markets are interconnected and interdependent and the knock-on effect of disruptions in one region can profoundly affect food security in countries far beyond their borders.²⁰

The South African Reserve Bank reported that bread and cereal prices increased by 3.7% within one month of the war in March 2022 alone, directly affecting the accessibility of these basic food items that most households need, thus the Russo-Ukrainian war has significantly impacted South Africa's ability to fulfil its right to sufficient food.²¹ This is because the foods affected are staple foods, which most households need to fight hunger on daily basis. These are basic foods needed at least to meet the "sufficient" standard.

The right to food is a fundamental human right²² recognised in Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR).²³ In South Africa, this right is enshrined explicitly in Section 27(1)(b) of the Constitution as the "right to sufficient food".²⁴ This distinction emphasises not just access to food but access to adequate nutrition for all citizens. This is in line with the sustainable development goals (SDGs) of the United Nations, as SDG 2 aims to end hunger and ensures access to nutritious food for all.²⁵

Despite the existence of legal and policy frameworks, South Africa still faces significant challenges related to food insecurity.²⁶ Food insecurity refers to a situation where individuals do not have consistent access to enough affordable and nutritious food necessary for a healthy lifestyle.²⁷ As a result, millions of people experience hunger,

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ South African Reserve Bank, 'Quarterly Bulletin' (June 2022)

<https://www.resbank.co.za/content/dam/sarb/publications/quarterly-bulletins/quarterly-bulletin-publications/2022/june/01Full-Quarterly-Bulletin.pdf> accessed 15 April 2024.

²² Olivier De Schutter, 'The Right to Food as a Human Right' (2010) 1(1) Journal of Human Rights and the Environment 15.

²³ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) art 11.

²⁴ Constitution of the Republic of South Africa, 1996, s 27.

²⁵ Wandile Sihlobo, 'The Russia-Ukraine Conflict Will Keep Food Inflation High' (Business Day, 28 February 2022) <https://www.businesslive.co.za/bd/opinion/columnists/2022-02-28-wandile-sihlobo-the-russia-ukraine-conflict-will-keep-food-inflation-high/> accessed 15 April 2023.

²⁶ Ibid.

²⁷ Ibid.

which, in the context of the right to sufficient food, means the distressing experience of not having enough food to satisfy basic dietary needs.²⁸ This can lead to undernourishment, violating the fundamental right to adequate nutrition. Additionally, within the framework of sufficient food, malnutrition includes both under-nutrition and over-nutrition.²⁹ It highlights the lack of essential nutrients necessary for overall health and development.³⁰ This often stems from insufficient dietary diversity or poor-quality food, emphasising that achieving food sufficiency goes beyond merely consuming enough calories; it also requires access to a variety of nutritious foods that support well-being.

In the face of global market instability, South Africa can benefit from examining the robust legal and policy frameworks of countries that have made significant strides in food security. Singapore's innovative "30 by 30" initiative, Finland's sustainable agriculture practices, Brazil's comprehensive Zero Hunger strategy, and India's multi-sectoral interventions, including the National Food Security Act, which has transformed food access into a legal right for a substantial portion of its population, offer valuable lessons.³¹ A comparative analysis with these countries is of paramount importance for South Africa as they are doing better in terms of interventions, legal and policy frameworks.

1.2 Problem statement

The Russo-Ukrainian war, which began on February 24, 2022, has had profound implications for global food security and has exposed significant weaknesses in South Africa's legal and policy frameworks regarding food availability.³² When the war broke out, South Africa was already grappling with the challenges of recurrent droughts, socio-economic inequalities, and the negative effects of reliance on rain-fed agriculture.³³ The war has further destabilized the situation, leading to a rise in food

²⁸ Ibid

²⁹ Sheryl Hendriks, 'Food Security in Rural South Africa – Homegrown Solutions for South Africa's Hungry' (2024) University of Pretoria https://www.up.ac.za/research-matters/news/post_2996572-food-security-in-rural-south-africa-homegrown-solutions-for-south-africas-hungry accessed 28 May 2024.

³⁰ Ibid.

³¹ Ibid.

³² Wandile Sihlobo, 'How the Russia-Ukraine Conflict Could Influence Africa's Food Supplies' (2022) The Conversation <https://theconversation.com/how-the-russia-ukraine-conflict-could-influence-africas-food-supplies-177680>.

³³ Ibid.

prices and increased hunger among citizens.³⁴ Despite the constitutional guarantee of the right to sufficient food as outlined in Section 27(1)(b) of the South African Constitution³⁵, many inhabitants continue to face food insecurity. The escalating prices of essential commodities such as wheat and sunflower oil have rendered basic nutrition unaffordable for many, exacerbating an already critical situation where over 14 million South Africans are reportedly hungry.³⁶

A thorough analysis of current legislations and policies reveals notable deficiencies that obstruct the achievement of food security in South Africa, especially in light of global crises.³⁷ The war exposes our legal and policy frameworks on this right on how they fail to respond to global crises.

South Africa adopted the neoliberalism approach when it became a democratic state.³⁸ As outlined in the introduction, neoliberalism if used well is not problematic but its overemphasis poses significant challenges to food security in South Africa, primarily due to its emphasis on deregulation and market-driven policies that prioritise corporate interests over local agricultural needs.³⁹ This economic approach gained traction in the 1990s after the end of apartheid when the democratic government adopted neoliberal policies, moving away from protectionist measures.⁴⁰

The opening of markets to international competition severely impacted small-scale farmers, who struggled to compete with low-cost imports from the Global North.⁴¹ Consequently, many farmers abandoned traditional crops vital for local diets, leading to increased dependence on imported foods and a decline in food sovereignty.⁴² The ongoing war in Russia and Ukraine has exposed the weaknesses of this approach by disrupting global food supply chains and driving up prices for essential commodities like wheat and cooking oil, pushing many households deeper into food insecurity.

³⁴ South African Institute of International Affairs, 'The Russia–Ukraine War: Implications for Africa' (2022) <https://saiia.org.za/research/the-russia-ukraine-war-implications-for-africa/>.

³⁵ The Constitution of South Africa, S 27(1)b.

³⁶ Ibid 14.

³⁷ Ibid, 25.

³⁸ Ibid, 16.

³⁹ Isakson S, 'The Political Economy of Food Sovereignty in South Africa' (2014) 39(2) Journal of Peasant Studies 345-367 <https://www.jstor.org/stable/4017724> accessed 28 june 2024.

⁴⁰ Ibid.

⁴¹ McMichael P, 'WTO Agriculture Negotiations: Implications for the Global South' (2008) <https://www.ifpri.org/blog/was-then-now-wto-and-agriculture/> accessed 25 july 2024.

⁴² Abid.

Part of the problem is that South Africa does not have a single comprehensive piece of legislation specifically aimed at protecting the right of access to sufficient food. Instead, the country depends on various policy frameworks, supported by only a few backup legislations. The lack of standalone legislation is problematic because policies lack legislative teeth, stability, and consistency, as they can change with different governments or administrations. This means that there is no clear accountability by the state. Be that as it may, the existing frameworks are rooted in a neoliberal approach, which prioritises market and export-driven solutions over self-sufficiency and local production if not used effectively and without properly aligned legal and policy framework.

The Bureau for Food and Agricultural Policy (BFAP 2024) framework has highlighted in their report under Section 3 that supports for agricultural production primarily benefits larger operations, leaving smaller farmers with inadequate resources and assistance.⁴³

The Agricultural Policy Action Plan (APAP) identifies a troubling focus on market competitiveness and agricultural exports, particularly in part 3.2 where it states that “local and non-local, smallholders in urban and peri-urban areas are currently poorly supported.”⁴⁴ This detracts from the essential goal of achieving food self-sufficiency.⁴⁵ The National Development Plan (NDP) 2030, in Chapter 6, emphasises the need for an inclusive rural economy through expanded access to international markets.⁴⁶ This export-oriented approach fails to strengthen the domestic agricultural sector, leaving South Africa vulnerable to international supply chain disruptions that jeopardize local food availability.

The Marketing of Agricultural Products Act 47 of 1996 focusses on schemes that primarily benefit large commercial producers while neglecting small-scale farmers who play a vital role in local food production.⁴⁷ This shortcoming increases reliance on imports and exposes communities to fluctuations in global prices. Similarly, the

⁴³ Bureau for Food and Agricultural Policy (BFAP 2024)

⁴⁴ Department of Agriculture, Forestry and Fisheries, Agricultural Policy Action Plan (APAP) 2014-2019 (2014) <https://www.kzndard.gov.za/images/Documents/PolicyDocuments/Agricultural-Policy-Action-Plan-2014-2019.pdf>.

⁴⁵ Ibid.

⁴⁶ National Planning Commission, National Development Plan 2030: Our Future – Make It Work (2012) <https://www.gov.za/documents/national-development-plan-2030-our-future-make-it-work-0>.

⁴⁷ Marketing of Agricultural Products Act 47 of 1996.

Competition Act 89 of 1998⁴⁸ does not adequately protect small farmers from monopolistic practices. Although it prohibits abuse of market power under Section 8, there are insufficient measures to prevent large corporations from dominating supply chains during crises.⁴⁹ This lack of coordinated regulation not only threatens local production but also contributes to rising food prices that disproportionately impact low-income households.

The National Policy on Food and Nutrition Security (2014) and the Integrated Food Security Strategy (2022) further highlight these gaps.⁵⁰ While the National Policy advocates for multi-sectoral collaboration, it fails to delineate clear responsibilities or accountability mechanisms for government agencies during emergencies.⁵¹ This lack of enforceability leads to inaction when prompt responses are crucial. Additionally, the Integrated Food Security Strategy sets forth objectives for enhancing food production but lacks specific actionable steps or contingency plans for addressing immediate needs during crises.

The war in Ukraine has exacerbated pre-existing vulnerabilities within South Africa's food security framework.⁵² The combination of rising global food prices and inadequate domestic policies presents a dire situation for millions of South Africans who struggle with hunger and malnutrition.⁵³ Thus, the right of access to sufficient food is not realised for many South Africans as it requires the state to take reasonable and other legislative measures to meet the progressive realisation of this right.

1.3 Aims and Objectives

1.3.1 Aims

This study aims to examine the implications of the Ukraine-Russia war on the right to sufficient food in South Africa and identify the shortcomings in the current legal and policy frameworks.

⁴⁸ Competition Act 89 of 1998.

⁴⁹ Ibid, s 8.

⁵⁰ Department of Agriculture, Forestry and Fisheries, National Policy on Food and Nutrition Security (2014) <https://www.gov.za/documents/national-policy-food-and-nutrition-security-0> ; Department of Agriculture, Forestry and Fisheries, Integrated Food Security Strategy for South Africa (2002) https://www.gov.za/sites/default/files/gcis_document/201409/foodpol0.pdf.

⁵¹ Ibid..

⁵² S Makhanya, 'Cooking Oil Prices Surge Amidst Ukraine Conflict' Mail & Guardian (Johannesburg, 7 March 2022) <https://mg.co.za/business/2022-03-07-inflation-pressure-mount-as-oil-price-hits-130-2/> accessed 23 July 2024

⁵³ Ibid.

1.3.2 Objectives

- i. To outline the implications of the Russo-Ukrainian war, showing how it has influenced food affordability, availability, accessibility, and quality in South Africa
- ii. To examine international law and its instruments that establish the right to food and assess South Africa's commitments as a signatory.
- iii. To identify gaps and shortcomings in South Africa's legal and policy frameworks regarding the right to of access sufficient food, particularly in response to global crises like the Ukraine conflict.
- iv. To explore international best practices and recommend policy interventions and legal reforms that could enhance the protection of the right to sufficient food in South Africa.

1.4 Hypothesis

It is hypothesised that the war has exposed the weaknesses of the South African legal and policy frameworks on the right to sufficient food, that they are inadequate to protect the right to sufficient food in light of global crises.

1.5 Research questions

Main Research Question:

How has the war in Russia and Ukraine affected the right to sufficient food in South Africa, and what legal and policy interventions can be implemented to address this issue?

Sub-questions:

- i. How has the ongoing war in Ukraine and Russia affected the right of access to sufficient food in South Africa, specifically regarding food affordability, availability, accessibility, and quality?
- ii. How is the right to food established in international law and its instruments that South Africa is a signatory to?

- iii. What are the gaps and shortcomings in current legal and policy frameworks in South Africa addressing the right to sufficient food that hinders effective protection of this right, particularly in light of global crises like this war?
- iv. Learning from international best practices, what policy interventions, legal reforms and other measures can be developed and implemented to protect the right of access to sufficient food in South Africa?

1.6 Literature review

The right to access sufficient food has received considerable attention from scholars, who have examined this fundamental human right from various angles. Despite the wealth of research on food security, there is a notable gap in the literature concerning the effects of wars and conflicts on the right to food, particularly in the context of South Africa. This gap underscores the necessity for a thorough exploration of how conflicts impact food security and what mitigating factors could be employed, especially given the ongoing conflict between Russia and Ukraine.

In South Africa, several researchers have focused on how rising food prices due to the Russia-Ukraine war affect food security.⁵⁴ Simelane and Antoinette Oosthuizen from the Human Sciences Research Council (HSRC) point out that while South Africa may appear food secure at a national level, this does not reflect the experiences of many households during global crises.⁵⁵ Their findings reveal that approximately 17.5% of households face severe food insecurity, a situation worsened by global price hikes for essential items like wheat and sunflower oil stemming from the conflict.⁵⁶

Van den Berg and Walsh from the University of the Free State conducted a systematic review that highlighted fluctuations in household food insecurity over time, emphasizing that it remains a pressing issue.⁵⁷ They argue that the ongoing conflict has exacerbated challenges for vulnerable populations, necessitating a comprehensive approach to fully understand and address food security.⁵⁸ Additionally,

⁵⁴ T Simelane & A Oosthuizen “Food Security in Times of Crisis” (Human Sciences Research Council 2022).

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ L van den Berg & CM Walsh “Household Food Insecurity: A Systematic Review” (University of Free State 2022).

⁵⁸ Ibid.

organizations such as the Centre of Excellence in Food Security (CoE-FS) have made significant contributions to this discussion by asserting that the war in Ukraine has disrupted supply chains and caused unprecedented increases in global food prices, disproportionately impacting low-income households in South Africa.⁵⁹ Their reports advocate for innovative policy responses aimed at mitigating these effects and bolstering local agricultural resilience

The perspectives offered by Liebenberg and Goldblatt are crucial for understanding how to ensure access to sufficient food. They argue that individuals claiming socio-economic rights possess interests that warrant protection, which requires government action through legislative standards and other measures.⁶⁰

Liebenberg and Quinot further contend that the urgency and intensity of these interests dictate whether policies and their implementation are deemed appropriate and reasonable under specific circumstances.⁶¹ The reasonableness test established in the case of the *Government of the Republic of South Africa v Grootboom* serves as a judicial framework for assessing government policies related to socio-economic rights. In this landmark case, the court evaluated whether government actions were suitable; if deemed suitable, they were considered reasonable; if not, they infringed upon the relevant socio-economic rights.⁶² This framework acknowledges both negative and positive obligations imposed on the state to foster an environment conducive to the progressive realization of socio economic rights.

The realization of the right to food occurs when individuals have sufficient availability and accessibility to meet their daily nutritional needs.⁶³ The definition established at the 1996 World Food Summit in Rome articulates that food security “exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food that meets their dietary needs and food preferences for an active and healthy life.”⁶⁴

The World Trade Organization's (WTO) trade regulations promote low-cost export foods or dumping practices from developed countries to developing ones, which can

⁵⁹ Centre of Excellence in Food Security “Impact of Ukraine Conflict on Food Prices” (2022).

⁶⁰ S Liebenberg & D Quinot “Socio-Economic Rights: A Reasonableness Approach” (2019).

⁶¹ Ibid.

⁶² *Government of the Republic of South Africa v Grootboom* [2001] ZACC 19

⁶³ Duduzile G Mbajjorgu and Kola O Odeku, ‘Fighting Food Insecurity: The Socio-Economic Right of Access’ (2022) 43 *Obiter* 467-468.

⁶⁴ World Food Summit “Rome Declaration on World Food Security” (1996).

have devastating consequences for small-scale farmers and lead to desensitisation.⁶⁵ Neoliberal policies have encouraged the dismantling of protective measures such as like food sovereignty and self-sufficiency, putting pressure on farmers to abandon traditional crops essential for local diets.⁶⁶ As a result, local communities become increasingly reliant on imported foods.⁶⁷

In their analysis, Mbajiorgu and Odeku discuss how interconnected issues such as poverty, lack of access to food, low income, hunger, unemployment, and malnutrition undermines fundamental human rights in South Africa as they argue that these factors directly hinder access to sufficient food as a socio-economic right.⁶⁸ Their work posits that effective strategies must be implemented by the government to enhance rural food security through social grants and land-based livelihood initiatives.

Moreover, it is crucial to recognise that high levels of poverty and unemployment are significant drivers of food insecurity in South Africa.⁶⁹ Many individuals lack access to resources necessary to produce food, such as land or water and do not have stable incomes required for purchasing adequate nutrition.⁷⁰ Various reports from institutions such as the South African Human Rights Commission (SAHRC) highlight an urgent need for public awareness regarding these rights among citizens who often remain uninformed about their entitlements under constitutional provisions.⁷¹

The Constitution of South Africa explicitly guarantees the right to sufficient food under Section 27(1)(b), stating that everyone has “the right of access to sufficient food.”⁷² However, this right has not received as much attention compared to other socio-economic rights such as health care or housing. The SAHRC notes that violations occur when individuals are denied access due to systemic barriers or when governmental policies fail to protect vulnerable populations from hunger.⁷³

⁶⁵ Oxfam GB, ‘Agricultural Trade and the Livelihoods of Small Farmers’ (2022) <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/113999/bn-agricultural-trade-and-livelihoods-small-farmers-090600-en.pdf?sequence=1> accessed 30 May 2024.

⁶⁶ S R Isakson, ‘Neoliberal Policies and Food Sovereignty’ (2014) 2 F1000Research 235 <https://f1000research.com/articles/2-235/v1> accessed 30 May 2024

⁶⁷ P McMichael, ‘Food Sovereignty: A Critical Perspective’ (2008) 34 Journal of Peasant Studies 1 https://www.tni.org/files/download/13_mcmichael_2013.pdf accessed 30 April 2024.

⁶⁸ Duduzile G Mbajiorgu and Kola O Odeku, ‘Fighting Food Insecurity: The Socio-Economic Right of Access’ (2022) 43 Obiter 467-468 <https://doi.org/10.17159/obiter.v43i3.14879> accessed 30 April 2024.

⁶⁹ South African Human Rights Commission “Right to Food Report” (2020).

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Constitution of Republic of South Africa 1996 s 27(1)(b).

⁷³ Ibid.

Since there have been no specific cases addressing the right of access to sufficient food, reference can be made to the principles established in other human rights cases to understand what constitutes “reasonable legislative and other measures” under Section 27(2) of the Constitution.⁷⁴ In *Grootboom v Government of the Republic of South Africa*, the Constitutional Court examined the rights of individuals living in an informal settlement who faced eviction and inadequate housing.⁷⁵ The court found that the state had a constitutional duty to provide adequate shelter, emphasizing that its existing housing policies were insufficient to meet the needs of those in crisis.⁷⁶ This landmark case underscored the importance of enforcing socio-economic rights, particularly the right to adequate housing as outlined in Section 26 of the South African Constitution.

Grootboom v Government of the Republic of South Africa in Para 38 framed three key thresholds, which a policy must meet in order to meet the reasonableness test. This applies to the legislative and other measures on the right of access to sufficient food. Such a policy must:

- (i) “not exclude a disproportionate percentage of the population;
- (ii) take into consideration the situation of those in crisis; and
- (iii) address the needs of those in desperate condition..”⁷⁷

In *Mazibuko v City of Johannesburg*, the Constitutional Court evaluated the City of Johannesburg’s Free Basic Water policy, which provided households with six kilolitres of free water each month.⁷⁸ The court determined that this policy was both reasonable and lawful under Section 27 of the South African Constitution, which guarantees access to basic services.⁷⁹ The ruling highlighted that while it may not be possible to immediately fulfil all rights, the government is required to take ongoing steps to progressively realize these rights for its citizens.

⁷⁴ Duduzile G Mbajorgu and Kola O Odeku, ‘Fighting Food Insecurity: The Socio-Economic Right of Access’ (2022) 43 *Obiter* 467-468.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ *Government of the Republic of South Africa v Grootboom and others* [2000] ZACC 19, para 38.

⁷⁸ *Mazibuko v City of Johannesburg* [2009] ZACC 28.

⁷⁹ *Ibid.*

The concept of progressive realization emphasises that governments have a responsibility to actively work towards fulfilling socio-economic rights, including the right to sufficient food. The court articulated this obligation with the statement that:

[67] The obligation of progressive realization imposes a duty upon government continually to review its policies to ensure that the achievement of the right is progressively realized. This means that governments cannot simply set policies and forget about them; they must regularly evaluate and improve their strategies to meet the needs of their populations.⁸⁰

In *Khosa and Others v Minister of Social Development*, the Constitutional Court addressed the exclusion of permanent residents from receiving social grants under the Social Assistance Act.⁸¹ The court ruled that this exclusion was unconstitutional, emphasising that the right to social security extends to "everyone," including permanent residents.⁸² The court stated that the importance of providing access to social assistance far outweighed the financial considerations that the state relied upon. Specifically, the court noted:

[24] The importance of providing access to social assistance to all who live permanently in South Africa, as well as the impact upon life and dignity that a denial of such access would have, far outweighed the financial and immigration considerations on which the State relied.⁸³

This ruling clarified that budget constraints cannot be used as an excuse for denying access to essential services. The court highlighted that some measures do not require extensive resources, reinforcing the obligation of the state to ensure that all individuals within its jurisdiction have access to necessary support.

This principle of reasonableness is particularly relevant when considering the right of access to sufficient food, as it underscores the need for a comprehensive framework that ensures all individuals can meet their basic nutritional needs. The court's insistence on inclusivity and responsiveness in policymaking indicates that South

⁸⁰ Ibid, para 67

⁸¹ *Khosa and Others v Minister of Social Development* [2004] ZACC 11; 2004 (6) SA 505 (CC); 2004 (6) BCLR 569 (CC),

⁸² Ibid.

⁸³ *Khosa and Others v Minister of Social Development* [2004] ZACC 11; 2004 (6) SA 505 (CC); 2004 (6) BCLR 569 (CC), para 24.

Africa must develop food security strategies that are equitable and do not exclude vulnerable populations.

International law plays an essential role in shaping domestic frameworks regarding food security. Although South Africa has signed but not ratified international agreements such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), it remains committed to implementing its principles through domestic legislation.⁸⁴ Article 11 of ICESCR mandates state parties to recognise their people's right to adequate food and freedom from hunger.⁸⁵ The General Comment 12 issued by the United Nations Committee on Economic, Social and Cultural Rights provides critical guidance on fulfilling these obligations.⁸⁶

In summary, while existing literature addresses various aspects of food security in South Africa, there remains a significant gap regarding comprehensive analyses of the impact of global conflicts such as wars on local realities and lived experiences. Future research should focus on addressing these gaps by exploring innovative policy responses tailored for vulnerable populations while advocating for stronger legal frameworks that uphold citizens' rights.

1.7 Research methodology

This study employed a doctrinal research methodology characterized by a systematic and rigorous approach to analysing and interpreting existing legal texts, principles, and cases. Doctrinal research methodology involves examining and synthesizing existing knowledge and theories in a particular field to gain a deeper understanding of the subject matter, as defined by scholars such as Tushnet, who describes it as a method of analysis which seeks to identify and interpret the underlying principles and concepts of the law.”⁸⁷ Hodge adds that it is a systematic examination of the existing legal literature on a particular topic, intending to identify and synthesize the key principles, rules, and concepts.⁸⁸

This approach is particularly suited for this research, as it allows one to analyse the existing legal framework⁸⁹ on the impact of global conflicts on food security in South

⁸⁴ International Covenant on Economic, Social and Cultural Rights (1966).

⁸⁵ Ibid, Art 11.

⁸⁶ UN Committee on Economic Social Cultural Rights “General Comment No. 12” (1999).

⁸⁷ Mark Tushnet, *Taking the Constitution Away from the Courts* (Princeton University Press 1999).

⁸⁸ Hodge and A Tripp-Jack, *Handbook of Research on Education Policy* (Routledge 2003).

⁸⁹ Ibid.

Africa without the need for fieldwork or empirical data collection. A thorough examination of legal texts was conducted, including the Constitution, legislation, case laws, international sources of law, and regional and local sources.

This methodology enabled analysis and interpretation of the legal principles and concepts that govern the relationship between global conflicts, food security, and human rights in South Africa. A doctrinal research methodology provides a comprehensive and nuanced understanding of the legal framework that governs food security in South Africa, including the role of international law and regional instruments. This approach also allowed for identifying gaps and contradictions in the existing legal framework and recommendations for legislative or policy reforms that can better protect the right to food in South Africa.

1.9 Chapter outline

Chapter 1: Introduction

This chapter provides the structure of the study, including the introduction, objectives, problem statement, research questions, and methodology. It sets the context for the study and outlines its significance.

Chapter 2: The Russia-Ukraine War and Its Global Effect on Food Security with Specific Reference to South Africa

This chapter discusses the war in Russia and Ukraine and its implications on trade and food supply across Africa, specifically South Africa.

Chapter 3: International Law on the Right to Food

This chapter focuses on international law concerning the right to food. It explores key instruments such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and other relevant treaties. The chapter will discuss state obligations under these frameworks and their implications for global food security.

Chapter 4: Analysis of Legal and Policy Frameworks in South Africa on the Right to Food

This chapter outlines existing legal and policy frameworks in South Africa that address the right to sufficient food. It analyses their effectiveness, identifies gaps, and discusses how these frameworks respond to challenges posed by global crises such as the Ukraine war.

Chapter 5: Learning from International Best Practices: Policy Interventions, Legal Reforms and other measures around the world

This chapter discusses potential mitigating factors and solutions that South Africa can implement in light of the war. It outlines and proposes legal and policy framework solutions to mitigate the effect of the war on the right to sufficient food in South Africa.

Chapter 6: Conclusions and Recommendations

This final chapter synthesises findings from previous chapters, presents conclusions drawn from the research, and offers actionable recommendations for policymakers to strengthen food security in South Africa amidst global challenges.

1.10 Delimitation of study

This study is delimited to examine the impact of the Russo-Ukrainian war on the right to access sufficient food in South Africa. It focuses on the legal and policy implications within the South African context, using a doctrinal methodology to analyse relevant laws and frameworks. The study does not address the political dimensions of the war, except where they directly influence food security. Similarly, it excludes an analysis of other human rights, such as health or education, unless they are directly linked to the right to food. The geographical scope is limited to South Africa, and the temporal focus is on the period from the onset of the war in 2022 to the present although the study might use other previous experiences that are relevant and also make suggestions for future similar issues.

1.11 Ethical considerations

This study employed a doctrinal methodology, which involves human participants or fieldwork, thus mitigating many traditional ethical concerns associated with research involving human subjects. However, the research adhered to the highest standards of academic integrity and ethical conduct. Plagiarism was stringently avoided, with all sources properly cited and acknowledged. The researcher was fully aware of and

committed to complying with the university's policies on ethics and plagiarism. In analysing and interpreting legal texts and scholarly works, utmost care was taken to represent ideas accurately and fairly. The study maintained objectivity in its analysis and conclusions, acknowledging any limitations or potential biases in the research approach. Furthermore, the researcher recognise the sensitive nature of the topic, given its implications for human rights and food security, and approached the subject with the appropriate level of respect and responsibility.

CHAPTER 2

2. THE RUSSO-UKRAINIAN WAR AND ITS GLOBAL EFFECT ON FOOD SECURITY WITH SPECIFIC REFERENCE TO SOUTH AFRICA

2.1 Introduction

Building on the foundation established in Chapter 1, this chapter provides an exposition of how global events, particularly the war in Russia and Ukraine have implications on South Africa's right to sufficient food. This discussion is layered on a description of the composition of South African food security system in its food imports and local production aspects. To understand these dynamics, this chapter investigates the specific food products sourced from Russia, Ukraine, and other affected countries, thus assessing the repercussions of the war on food availability, accessibility, affordability, and quality in South Africa. By examining these factors, this chapter provides valuable insights into the complexities of South African food security landscape in light of global crises.

South African food security composition: local production vs imports.

To understand how the war in Russia and Ukraine affects the right of access to sufficient food, it is important to first outline South Africa's food security composition to understand which percentage is locally produced, which percentage is imported, and from which countries.

Food security in South Africa is essentially anchored in the right of access to sufficient food in Section 27 of the 1996 Constitution. This constitutional provision obliges the state to take reasonable measures to achieve access to sufficient food so that citizens can enjoy access to sufficient food. This will be discussed in detail in Chapter 4 of this study. Despite the existence of such constitutional safeguards, the majority of people continue to experience food insecurity on account of systemic problems such as poverty, inequality and insufficient and unresponsive government initiatives.

Operational and implementation challenges at the legal and policy framework level undermine the realisation of the right to access sufficient food.⁹⁰

Local food production in South Africa makes up about 60% of its total food supply.⁹¹ Agricultural production mainly occurs in the Provinces of the Free State, Mpumalanga, and Limpopo, with significant crops including maize, sugarcane, and fruits.⁹² On occasions, national production is unable to meet the demand, and imports supplement the demand-supply gap. Furthermore, dependence on local agriculture is limited by the lack of access to arable land for the majority of South Africans and the sluggish land reform programme of the government.⁹³ Changes in climatic conditions affect the consistency of the yield that farmers can expect. Thus, though local production is a critical determinant of food availability, it is inadequate to achieve reliable food security throughout the country.⁹⁴

About 40% of South Africa's food is imported, making the country vulnerable to changes in the international markets.⁹⁵ Major imports include grains, dairy products, and processed foods from countries like Brazil and the European Union (the EU).⁹⁶ The ongoing conflict between Russia and Ukraine has disrupted global grain supplies, leading to rising prices worldwide. South Africa has struggled to protect consumers from these price increases, forcing them to deal with the consequences of relying heavily on foreign markets for essential food items.⁹⁷ Fintel emphasises that the increasing reliance on global markets for food supply makes countries vulnerable to external shocks, such as geopolitical conflicts and economic downturns.⁹⁸

Russia and Ukraine are the major exporters of wheat and maize worldwide including South Africa, and these two crops are an essential staple in most people's daily diets

⁹⁰ A Mazenda, 'Food Security in South Africa: A Review of the Policy Framework' (2021) https://repository.up.ac.za/bitstream/handle/2263/83159/Mazenda_Food_2021.pdf?sequence=1 accessed [20 September 2024].

⁹¹ 'The National Policy on Food and Nutrition Security for the Republic' (2014) https://www.gov.za/sites/default/files/gcis_document/201409/37915gon637.pdf accessed [08 September 2024].

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ A Mazenda, 'Food Policy, Governance and the South African Food Security' (2021) University of Pretoria Repository <https://repository.up.ac.za/handle/2263/83159> accessed 17 September 2024.

⁹⁶ Ibid.

⁹⁷ Integrated Food Security Phase Classification (IPC), 'South Africa – Acute Food Insecurity' (2020) https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_South_Africa_AcuteFoodInsec_2020Nov2021Mar_Report.pdf accessed [09 August 2024].

⁹⁸ Dieter von Fintel, 'Food Security in South Africa: Challenges and Opportunities' (2024).

within South Africa.⁹⁹ The rising food prices and shortage of supply caused by the war have left South Africa with the challenging options of looking elsewhere for alternative sources of imports, increasing domestic production, or improving production methods with new technologies.¹⁰⁰ The transition has proven to be difficult due to existing agricultural production constraints, the unreadiness of implementing new production methodologies, and market dependencies. Other conditions, such as being prone to drought and rainfall-dependent farming, further worsen the situation since they compromise agricultural productivity at the local level and, thus, limit food availability.¹⁰¹

Globalisation, as a twenty-first-century phenomenon, has improved access to a greater variety of foods; however, such access is vulnerable to international markets' reliability and performance.¹⁰² As supply chains become more interconnected globally, events that impact international markets, from trade disputes to geopolitical conflicts, can instantly impact local food prices and availability.¹⁰³ The risks associated with overdependence on global markets, such as supply chain disruptions or unexpected increases in global prices, are enormous.¹⁰⁴

2.2 Neo-liberalism

Neoliberalism emphasizes free markets, deregulation, and minimal government involvement, which can lead to increased economic efficiency and a boost in food production through enhanced competition and innovation.¹⁰⁵ This often results in lower prices and improved availability of food. However, an overemphasis on neoliberal policies can deepen existing inequalities¹⁰⁶, particularly in South Africa, where the impacts of apartheid have created significant socio-economic divides.¹⁰⁷ In this

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Southern African Development Community (SADC), 'Food Security' <https://www.sadc.int/pillars/food-security> accessed [09 August 2024].

¹⁰² Ibid.

¹⁰³ 'Household Food Security in South Africa' (2011) https://scielo.org.za/scielo.php?pid=S0301-603X2011000200008&script=sci_arttext accessed [15 June 2024]

¹⁰⁴ Ibid.

¹⁰⁵ Thabiso Mfete, 'Neoliberalism and Inequality in Post-Apartheid South Africa' (2020) 14(2) Pretoria Student Law Review 271 https://www.pulp.up.ac.za/images/edocman/journals/2020_PSLR_2/Chapter%20Thabiso%20Mfete%202020.pdf accessed 25 september 2024.

¹⁰⁶ J Bockman, 'Neoliberalism and Embodiment in the Global Food System' (2013).

¹⁰⁷ TSN Muwanga and L Korsten, 'The Right to Food in South Africa: A Consumer Protection Perspective' (2025) African Human Rights Law Journal.

context, neoliberal reforms have frequently fallen short of addressing these historical injustices, leaving many marginalized communities vulnerable to food insecurity.¹⁰⁸

The dominance of a few multinational corporations within a neoliberal framework can weaken local food systems and restrict equitable access to sufficient nutrition.¹⁰⁹ Additionally, global crises like the ongoing conflict between Russia and Ukraine have disrupted supply chains and raised food prices, disproportionately affecting low-income families already facing challenges in accessing adequate food.¹¹⁰ Consequently, while neoliberalism may offer certain economic benefits, its implementation in South Africa has often reinforced systemic inequalities that obstruct the right to sufficient food for all.¹¹¹

According to Mfete, this approach has led to significant reliance on global supply chains, undermining local agricultural resilience and exacerbating food insecurity amid international disruptions.¹¹² Mazwi also argues that one of the factors that has significantly affected South Africa's ability to adequately respond to the disruptions caused by the war between Russia and Ukraine by making it dependent on international market fluctuations was the adoption of neo-liberal policies by the post 1996 democratic South Africa.¹¹³ Greenberg adds that this agenda focuses more on globalisation and trade liberalisation in order to attract foreign investment for the development of the economy.¹¹⁴ While these policies had some positive features, they have simultaneously created formidable barriers for national farmers who cannot hope to compete with much cheaper imports that have flooded the market.¹¹⁵ Very often, such imports undermine the agricultural sector's productive potential and, by implication, the large population that depends on it. Chapter 4 will show how this agenda is reflected in our legal and policy frameworks.

As shown above, this study opines that the neoliberal policies adopted post-1996 have intensified competition and led to significant structural changes in South Africa's

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid, 108.

¹¹¹ Ibid.

¹¹² Ibid, 108.

¹¹³ Mazwi F, 'Analysing the Effect of Neoliberal Restructuring on Peasant Farmers in Southern Africa' (2022) <https://stias.ac.za/2022/05/analysing-the-effect-of-neoliberal-restructuring-on-peasant-farmers-in-southern-africa/> accessed 24 July 2024.

¹¹⁴ Greenberg S, 'Neoliberals Capture South African Smallholder Farmer Support Policy' (2023) <https://plaas.org.za/stephen-greenberg-neoliberals-capture-south-african-smallholder-farmer-support-policy/> accessed 24 August 2024.

¹¹⁵ Ibid.

agricultural sector.¹¹⁶ The withdrawal of state support and the emphasis on market-driven approaches have exacerbated food insecurity, particularly affecting smallholder farmers.¹¹⁷ This has resulted in a decline in local food production and increased reliance on imports, which are often cheaper and undermine domestic agriculture.¹¹⁸ Consequently, the livelihoods of many rural communities are jeopardised, leading to heightened unemployment and food scarcity.¹¹⁹

2.3 Corruption

Corruption in South Africa significantly exacerbates food insecurity by compromising efforts to ensure access to sufficient food. The COVID-19 pandemic highlighted instances where food aid intended for vulnerable populations was diverted by local officials for personal gain or political advantage, leaving many without essential support.¹²⁰ This betrayal of trust underscored the necessity for robust anti-corruption measures in emergency responses.¹²¹ Corruption erodes state capacity, leading to the misappropriation of resources allocated for food security initiatives, which in turn worsens hunger and poverty.¹²²

Addressing corruption through enhanced transparency and accountability is vital for effective food security policies. Moreover, corruption risks within the food value chain, such as embezzlement and land grabbing, disproportionately impact marginalized communities.¹²³ Strengthening anti-corruption measures is crucial to safeguard the right to food and enhance food security in South Africa.

2.4 Russo-Ukrainian war's impact on food security and food supply chain

The COVID-19 pandemic, which emerged in late 2019 and was officially declared a global pandemic by the World Health Organization on March 11, 2020, caused widespread disruptions to food supply chains.¹²⁴ Lockdowns and labour disruptions led to significant economic challenges and heightened food insecurity worldwide.¹²⁵

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ Ibid.

¹²⁰ M. M. Mataboge, 'Food parcel corruption: ANC councillor arrested for allegedly selling food parcels meant for the poor' News24 (22 April 2020).

¹²¹ Ibid.

¹²² Du Plessis, 'Corruption in South Africa: A Review of Recent Developments' (2020) 20(1) African Human Rights Law Journal 1, 12.

¹²³ Ibid

¹²⁴ Ben White et al., Food Security in South Africa: Human Rights and Entitlement Perspectives (UCT Press 2020) <https://openuctpress.uct.ac.za/uctpress/catalog/book/56> accessed 18 July 2024.

¹²⁵ Ibid.

According to the FAO, the pandemic pushed 130 million people into chronic hunger in 2020 alone, exacerbating existing vulnerabilities in food systems.¹²⁶ In addition, the ongoing Russo-Ukrainian war, which began on February 24, 2022, has further strained these systems by interrupting grain exports from Ukraine, one of the world's largest grain producers, driving up prices for essential goods.¹²⁷ The World Bank reported that global food prices surged by nearly 40% in 2022 due to the conflict, significantly impacting countries like South Africa that rely heavily on imported food supplies.¹²⁸ This combination of crises has profoundly affected food security in South Africa and other African nations, highlighting the urgent need for resilient food systems and diversified supply chains.¹²⁹

Not only has the war deepened the existing problems but also presented new obstacles in the production and distribution of food, further destabilizing the already fragile global food system.¹³⁰ This war has imposed considerable losses in agricultural output, especially in Ukraine, which is among the world's largest grain-producing countries.¹³¹ With both countries being critical suppliers of wheat, corn, barley, and sunflower oil, this conflict threatens to worsen food insecurity for many people.¹³² The effects of this war have stretched beyond Ukraine or Russia into other parts of the world.¹³³

The ongoing war has led to disruptions to maritime transport, and this disruption has affected the functionality of food supply chains around the world which depend on maritime transport.¹³⁴ The Black Sea Grain Initiative, launched in July 2022, aimed to ensure safe passage for grain shipments leaving Ukraine ports.¹³⁵ Partial exports could resume however, Russia reneged on the initiative in July 2023.¹³⁶

¹²⁶ Food and Agriculture Organization of the United Nations (FAO), 'The State of Food Security and Nutrition in the World 2021' (2021) <https://www.fao.org/publications/sofi/2021/en/> accessed 23 July 2024.

¹²⁷ Ibid.

¹²⁸ World Bank, 'Food Security Update: Global Food Prices Surge' (2022) <https://www.worldbank.org/en/news/feature/2022/05/19/global-food-prices-surge> accessed 23 July 2024.

¹²⁹ European Parliament Research Service (2022) 'How the Russian invasion of Ukraine has further aggravated the global food crisis' <https://www.consilium.europa.eu/en/infographics/how-the-russian-invasion-of-ukraine-has-further-aggravated-the-global-food-crisis/> accessed [12 September 2024]

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

¹³³ Aon Insights Report (2022) 'Impact of Russia's Invasion of Ukraine on Global Food Supply and Prices' <https://www.aon.com/en/insights/articles/the-russia-ukraine-conflict-will-have-a-major-and-long-lasting-impact-on-global-food-supply> accessed [20 September 2024]

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Ibid.

The effects of the ending of this initiative were instant, and among others; the number of commercial vessels leaving the Ukrainian port every day shrank from over 150 to no vessel at all.¹³⁷ The inability of Ukraine to export its commodities decreased its export revenue, but also continued to cause unprecedented disruptions across global supply chains for food imports.¹³⁸ South Africa is one of the countries affected by the disruptions.¹³⁹ The supply chain disruptions are likely to have long-lasting implications for regional food security.¹⁴⁰

The Russo-Ukrainian war highlights the interconnectedness of global food systems.¹⁴¹ This war affects agricultural production and trade worldwide, impacting regions as distant as South Africa, where rising prices threaten food security.¹⁴² Building resilience in food systems and finding sustainable solutions are urgent for safeguarding future food security both locally and internationally.

Traditionally, both Ukraine and Russia have been the “breadbasket of Europe,” a term befitting their huge supplies to world agricultural exports. Taken together, the two countries account for about a third of the world’s wheat exports.¹⁴³ Both are important exporters of sunflower oil, barley, and corn, among other staples. Before hostilities started, Ukraine alone accounted for about 9% of world wheat exports, while Russia accounted for about 20%.¹⁴⁴ The heavy reliance on agricultural production from these countries underlines their importance in the global agricultural community, where relative stability and predictability of output assume great importance for many countries dependent upon their exports to realize food security.¹⁴⁵

Countries reliant on imports from these countries are now facing dire food shortages and surging prices. For example, many countries in Africa and the Middle East depend on Ukrainian grain as part of their staple foods. As a result of the stoppage of its Black

¹³⁷ Ben Hassen et al., ‘Conflict in Ukraine and the Unsettling Ripples: Implications on Food Security’ (2024) Agriculture and Food Security.,

¹³⁸ Ibid.

¹³⁹ Ibid

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Human Rights Watch, ‘Ukraine/Russia: As War Continues, Africa Food Crisis Looms’ (28 April 2022).

¹⁴³ Food and Agriculture Organization of the United Nations, ‘The Impact of the Ukraine Crisis on Global Food Security’ (2022).

¹⁴⁴ Ibid.

¹⁴⁵ Human Rights Watch, ‘Ukraine/Russia: As War Continues, Africa Food Crisis Looms’ (28 April 2022).

Sea ports, exports from Ukraine have fallen sharply.¹⁴⁶ It has been estimated that wheat exports from Ukraine plummeted by over 90% in the immediate period following the start of the war.¹⁴⁷ Consequently, grain prices have gone up internationally, causing disruptions to downstream as well as input markets.¹⁴⁸ Even if the war were to stop today, specialists predict that such impacts will persist for at least several more years in food production and supply chains due to the infrastructure destruction and lost agricultural capacity. In the words of Tami Griffin from Aon: “Even if the crisis stopped today, the impacts on food and agriculture are going to be felt for a long time.”¹⁴⁹

In South Africa, this war has also significantly changed the value chain of foodstuffs.¹⁵⁰ Historically, reliant on imports to meet a substantial volume of its grain needs, around 40% of South Africa's wheat imports being imported from Russia and Ukraine, the country now faces shocks from increased food prices and supply shortages.¹⁵¹ The shortage of grain propelled South Africa into searching for alternative supplies or producing more food locally. Neither of these can be possible in a short period to replace what it lost through the collapse of imports from these critical suppliers.

Reliance on foreign markets with respect to staple commodities such as wheat and corn makes South Africa particularly vulnerable during international crises.¹⁵² Local farmers are equally suffering increased input costs due to inflationary pressures caused by disrupted supply chains from various parts of the globe. The war has grossly affected transportation logistics.¹⁵³

It is not only that the war has shut key shipping routes but it has also raised the risk associated with shipping goods through conflict zones, which adds to shipping costs.¹⁵⁴ It also means that, amid this South African crisis, other food imports besides grains from Russia and Ukraine are incurring increased costs. The interconnectedness of

¹⁴⁶ European Council, 'How the Russian Invasion of Ukraine Has Further Aggravated the Global Food Crisis' (2022) <https://www.consilium.europa.eu/en/infographics/how-the-russian-invasion-of-ukraine-has-further-aggravated-the-global-food-crisis/> accessed 18 September 2024.

¹⁴⁷ Kyiv Independent, 'Ukraine's Wheat Exports to Drop to 10-Year Low, US Agriculture Department Says' (2023) <https://kyivindependent.com/ukraines-wheat-exports-to-drop-to-10-year-low-us-agriculture-department-says/> accessed 13 September 2024.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Emmanuel O. Oritsejafor, *Indigenous Knowledge: An Alternative for Food Security and Wellness in Africa* (Rowman & Littlefield 2022).

¹⁵³ Nature Communications (2023) 'Disrupted harvests: how Ukraine – Russia war influences global food' <https://www.tandfonline.com/doi/full/10.1080/01442872.2024.2329587>.

¹⁵⁴ World Food Programme (2022) 'How the War in Ukraine Affects Food Security' <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10648107/> accessed [17 August 2024].

supply chains has many advantages in a globalised economy. However, it is not without disadvantages.¹⁵⁵ The one notable disadvantage is that a disruption in one area causes cascading effects in another area and systems. Experts warn that if shipping costs continue to rise, food prices in domestic markets could be raised.¹⁵⁶

Beasley, Executive Director of the World Food Programme (WFP), has pointed out that “the war in Ukraine is pushing millions into hunger,” underlining how important it is for countries like South Africa to secure stable food supplies in such volatile times.¹⁵⁷ The WFP reports alarming increases in food insecurity levels worldwide, primarily brought about by increases in prices and reduced availability of staple foods like wheat and maize that are critical components of diets in many developing countries¹⁵⁸. Apart from that, agricultural production in South Africa is influenced by repercussions from the war not only through direct imports from Russia and Ukraine but also broader market conditions.¹⁵⁹ Specific competition for remaining resources is created when countries scramble to secure food supplies amid growing prices and reduced availability.¹⁶⁰ This competitive environment may easily translate into further price increases as countries might prioritise their needs over international obligations or trade agreements.¹⁶¹

2.5 Effects on food security in context, (food availability, accessibility, affordability and quality)

2.5.1 Food Availability

Food availability refers to the consistent and reliable presence of food in markets and stores, ensuring that individuals have access to a diverse array of nutrient-rich and culturally relevant food items.¹⁶² It encompasses not only the presence of food items but also the regularity and speed with which they are replenished to sustain both individual daily needs and broader community food security.¹⁶³ In South Africa,

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Ben White et al., Food Security in South Africa: Human Rights and Entitlement Perspectives (UCT Press 2020).

¹⁶¹ NCBI (2022) ‘Food Security’ <https://www.sadc.int/pillars/food-security> accessed [21 September 2024].

¹⁶² Food and Agriculture Organization of the United Nations, Food Security: Policy Brief (2022).

¹⁶³ Ibid.

achieving food availability means ensuring even the most basic staples such as wheat, sunflower oil, and related goods are continuously accessible to all peoples.

Implications of the Russia-Ukraine War on Food Availability in South Africa

The Russia-Ukraine conflict has dramatically disrupted the flow of essential commodities that South Africa heavily relies on and which are critical ingredients that form the backbone of many South Africans' diets.¹⁶⁴ The disruption of grain exports from Ukraine has resulted in decreased supplies of vital items such as wheat, maize, and cooking oil.¹⁶⁵ As a result, many consumers are struggling to find these basic foods and are often forced to settle for lower-quality alternatives.¹⁶⁶ The South African Bureau for Food and Agricultural Policy has warned that these shortages could heighten food insecurity, especially for those who depend on these staples for their daily nutrition.¹⁶⁷

Ukraine, renowned as a significant exporter of wheat, faces logistical barriers due to warfare, which drastically limits its output and transport abilities.¹⁶⁸ For many South Africans, the price of staples including sunflower oil that most are used to have gone up or are at risk of being priced out of the market due to the disruptions occasioned by the war. These disruptions prompt importers to search for alternative sources, often resorting to expensive and less reliable markets, further contributing to strained retail supplies.¹⁶⁹

The global impact of the war extends beyond Russian and Ukrainian borders, affecting countries integral to South African import strategies.¹⁷⁰ Nations across Europe and Asia, critical suppliers of supplementary grains and oils, face their own logistic and economic disturbances, compounding the availability crisis within South Africa as these nations adjust their export strategies or prioritise internal needs.¹⁷¹

¹⁶⁴ Human Rights Watch, 'Ukraine/Russia: As War Continues, Africa Food Crisis Looms' (2022) <https://www.hrw.org/news/2022/04/28/ukraine/russia-war-continues-africa-food-crisis-looms> accessed 18 September 2024.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ Human Rights Watch, 'Ukraine/Russia: As War Continues, Africa Food Crisis Looms' (2022) <https://www.hrw.org/news/2022/04/28/ukraine/russia-war-continues-africa-food-crisis-looms> accessed 12 October 2024.

¹⁶⁸ Ibid.

¹⁶⁹ Wandile Sihlobo, '9,000 Miles Away, South Africa's Economy Feels the Pain of Russia's War in Ukraine' PassBlue (6 June 2022)

¹⁷⁰ Ibid.

¹⁷¹ Nidzvetska e., 'Disrupted Harvests: How Ukraine – Russia War Influences Global Food Security' (2024) 58(3) Journal of Agricultural Economics.

Rural South African regions, with limited access to import centres, are most affected by availability pressures.¹⁷² Remote communities depend on local trading posts and informal markets, but export disruptions lead to shortages of staples like scones, a common snack for low-income households.¹⁷³ Producers face rising demands for smaller wheat batches, further limiting accessibility.¹⁷⁴ Urbanisation plays a significant role, as more South Africans move to cities, increasing competition and shelf turnover in urban supermarkets.¹⁷⁵ Consumers see more imported processed foods than locally grown products, exacerbating market reliance on imports.¹⁷⁶

With this multifaceted crisis, South Africa requires strategic government intervention and private sector innovation to navigate these availability challenges.¹⁷⁷ This study further opines that encouraging local agricultural investment, bolstering domestic wheat and sunflower production, and exploring technological advances in supply chain efficiencies will be crucial in overcoming reliance on disrupted international resources.

2.5.2 Food Accessibility

Food accessibility refers to the ease with which individuals and communities can physically and economically purchase sufficient quantities of nutritious food.¹⁷⁸ This concept encompasses economic access, which speaks to whether people can afford the food they need, and physical access, meaning the proximity and distribution of food outlets readily reachable by consumers.¹⁷⁹ In South Africa, accessibility challenges translate into significant barriers, particularly in rural and underserved urban areas where infrastructure and economic inequality hinder communities from securing their dietary needs, exacerbating the consequences of absent or inconsistent food supply chains.¹⁸⁰

War-Induced Supply Chain Fragmentation

¹⁷² Ibid, n 124.

¹⁷³ Wandile Sihlobo, '9,000 Miles Away, South Africa's Economy Feels the Pain of Russia's War in Ukraine' PassBlue (6 June 2022)

¹⁷⁴ Ibid.

¹⁷⁵ Ibid.

¹⁷⁶ ibid

¹⁷⁷ Ibid.

¹⁷⁸ Wandile Sihlobo, '9,000 Miles Away, South Africa's Economy Feels the Pain of Russia's War in Ukraine' PassBlue (6 June 2022)

¹⁷⁹ Thokozani Simelane and Antoinette Oosthuizen, 'Food Survey Shows Need for Area-Specific Interventions in SA' HSRC (2023) <https://hsrc.ac.za/news/latest-news/food-survey-shows-need-for-area-specific-interventions-in-sa/> accessed 12 October 2024.

¹⁸⁰ Ibid.

The Russia-Ukraine conflict, through its severe disruption of global supply chains, aggravates accessibility issues in South Africa.¹⁸¹ This geopolitical tension affects transportation costs, as global oil price inflation, partially driven by the conflict leads to increased shipping and freight tariffs that cascade through South Africa's food distribution networks.¹⁸² Rural areas like Limpopo and the Eastern Cape, where food shipments are less frequent, face additional delays and inflated costs, reaching remote communities already struggling with food access.¹⁸³ The ongoing war affects food accessibility in South Africa, making it harder for many families to obtain essential food items. With rising prices and supply chain disruptions, staples like wheat, maize, and cooking oil have become less available in local markets.¹⁸⁴ For example, many rural communities face challenges in accessing these basic foods, often due to increased transportation costs and limited distribution networks.¹⁸⁵ Reports indicate that households increasingly rely on food aid or community support programs, struggling to meet the growing demand.¹⁸⁶ The South African Bureau for Food and Agricultural Policy has pointed out that these accessibility issues are compounded by socio-economic factors such as high unemployment rates and limited income, making it difficult for vulnerable populations to secure adequate nutrition.¹⁸⁷

The conflict's reverberations extend beyond South Africa's borders, affecting European suppliers pivotal in bridging the gap between South Africa and Eastern European produce.¹⁸⁸ These suppliers face their logistical concerns, struggling to navigate heightened transportation costs and constrained shipping routes. Wheat and sunflower oil are for imported goods central to the South African diet.¹⁸⁹ These complications thin out availability and drive up retail prices, impacting consumers with constrained accessibility infrastructures.

¹⁸¹ Adrino Mazenda, 'Poor South African Households Can't Afford Nutritious Food: What Can Be Done?' The Conversation (24 July 2024).

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Human Sciences Research Council, 'Food Survey Shows Need for Area-Specific Interventions in SA' (2023) <https://hsrc.ac.za/news/latest-news/food-survey-shows-need-for-area-specific-interventions-in-sa/> accessed 12 October 2024.

¹⁸⁷ Wandile Sihlobo, '9,000 Miles Away, South Africa's Economy Feels the Pain of Russia's War in Ukraine' PassBlue (6 June 2022)

¹⁸⁸ Ibid.

¹⁸⁹ Ibid.

Increased import costs lead to trickledown effects, causing inflated retail pricing for staple goods, and distancing South African buyers from nutritional independence.¹⁹⁰ Additionally, as urban areas like Johannesburg and Cape Town wrestle with sustaining constant supply amid changing nutritional demands driven by urbanisation, shop owners harbour fewer fresh food options, leaning on increased stocks of processed, nutrient-poor alternatives.¹⁹¹

The decline in availability exacerbates urban-rural nutritional dichotomies, where urban centres stand comparatively advantaged.¹⁹² Rural inhabitants face sustained travel and cost barriers to secure staple foods amid logistical inconsistencies.¹⁹³ In areas relying on independent informal markets for key staples like flour, the disruption of supply chains renders previously predictable resources increasingly scarce and expensive.¹⁹⁴

Physical accessibility concerns extend beyond distribution issues to structural economic inequality.¹⁹⁵ South Africans earning lower wages and dependent on fixed or informal income streams struggle to consistently buy nutritious food in a market squeezed by war-driven shortages.¹⁹⁶ This disparity tips purchasing power toward higher-cost items available in convenience stores at a premium processed foods high in fat, sugar, and preservatives, contrasting starkly against the affordability aims.¹⁹⁷

2.5.3 Food Affordability

Food affordability revolves around the economic feasibility for individuals and households to access nutritious food without sacrificing other essential expenditures.¹⁹⁸ It pertains to whether everyday staples like bread, sunflower oil, and cooking staples remain financially accessible amidst shifts in economic conditions and

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² BusinessTech, 'Food prices in South Africa skyrocket over five years' (2024)

<https://businesstech.co.za/news/wealth/762858/food-prices-in-south-africa-skyrocket-over-five-years/> accessed 18 September 2024.

¹⁹³ F Odiwuor, The Price of Russia's Ukraine Invasion: Africa's Food Security (Woodrow Wilson International Center for Scholars 2022).

¹⁹⁴ Ibid.

¹⁹⁵ Ben White et al., Food Security in South Africa: Human Rights and Entitlement Perspectives (UCT Press 2020) <https://openuctpress.uct.ac.za/uctpress/catalog/book/56> accessed 18 August 2024.

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

price variations.¹⁹⁹ In South Africa, affordability is a critical concern, with socioeconomic disparities underpinning complex interactions between consumer purchasing power and the escalating costs of commodities²⁰⁰, intensified by global conflicts and economic pressures arising from the Russia-Ukraine conflict.

The economic turmoil emerging from the Russia-Ukraine war has driven significant upward pressure on commodity prices globally.²⁰¹ As both countries play critical roles in the export of wheat and sunflower oil, the war has led to restricted supply and heightened costs for these essentials.²⁰² South African households face marked affordability challenges as staple food items, including bread and cooking oil, see steep price increases in local markets driven by reduced availability. These are not mere economic figures; they are daily realities, impacting choices on what to feed households

The conflict exacerbates earlier economic pressures, Inflating costs beyond anticipated limits.²⁰³ Families reliant on bread as a dietary staple find themselves reducing consumption or seeking alternatives as prices surpass affordable thresholds.²⁰⁴ For lower-income South Africans, this financial stress denotes more than mere shopping adjustments; it means recalibrating nutritional intake around affordability, leading to increased reliance on less expensive, less nutritious food options, compromising health for cost savings.²⁰⁵

The affordability crisis extends to cooking oil shortages and escalating prices caused by the volatile sunflower oil market²⁰⁶, further strained by global logistics disruptions.²⁰⁷ As sunflower oil is an integral South African cooking ingredient, households migrate

¹⁹⁹ BusinessTech, 'Food prices in South Africa skyrocket over five years' (2024)

<https://businesstech.co.za/news/wealth/762858/food-prices-in-south-africa-skyrocket-over-five-years/> accessed 18 September 2024.

²⁰⁰ Ibid.

²⁰¹ World Bank, 'Commodity Markets Outlook, April 2022 : The Impact of the War in Ukraine' (2022)

<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099606104272239809/IDU0953d8f340aba1044020ad080242e415e1a08> accessed 13 October 2024.

²⁰² H Reyneke, 'The Ongoing Russian-Ukrainian War and Its Impact' (2024)

<https://rainbowchickens.co.za/the-ongoing-russian-ukrainian-war/> accessed 14 October 2024.

²⁰³ Ibid.

²⁰⁴ F Odiwuor, The Price of Russia's Ukraine Invasion: Africa's Food Security (Woodrow Wilson International Center for Scholars 2022).

²⁰⁵ Ibid, 145.

²⁰⁶ F Odiwuor, The Price of Russia's Ukraine Invasion: Africa's Food Security (Woodrow Wilson International Center for Scholars 2022).

²⁰⁷ Statistics South Africa, 'Consumer Price Index: April 2022' (2022).

towards substitute oils often higher in saturated fats or offered at premium pricing adding layers of cost and health implications beyond initial economic concerns.²⁰⁸

According to the South African Reserve Bank, it is evident that indeed the Russia-Ukraine war has led to significant food price increases in South Africa, particularly for staples like wheat, maize, and sunflower oil.²⁰⁹ Wheat prices surged by approximately 50%, while cooking oil rose by 35% and maize by 14% due to disrupted supply chains and increased global demand.²¹⁰ The South African Reserve Bank projected inflation at 5.8% for the year, higher than its previous estimate of 4.9%, influenced by rising food and fuel costs.²¹¹ This inflationary pressure disproportionately affects low-income households, exacerbating food insecurity across the nation.²¹²

Secondary commodity markets, such as those involving granulated products and bakery-ready mixes, mirror the wheat supply shock, experiencing associated price increases and decreased availability.²¹³ Ready-to-use flour mixes generate consumer strain under heightened costs, affecting affordability and convenience paradigms for households accustomed to semi-processed food products used for cooking and baking family meals.²¹⁴

Effects of Oil Prices on Food Affordability

The ongoing war between Russia and Ukraine has had far-reaching effects on global food affordability, primarily due to its impact on oil prices.²¹⁵ Food markets are closely linked to the oil market, meaning that fluctuations in oil prices can significantly influence the cost of food production and distribution.²¹⁶ In South Africa, where most food is transported by road, the rising price of diesel has become a pressing concern for both consumers and producers. As fuel costs increase, so too do transportation expenses, which ultimately lead to higher prices for food items at the grocery store.

²⁰⁸ Statistics South Africa, 'Consumer Price Index: April 2022' (2022).

²⁰⁹ South African Reserve Bank, 'Monetary Policy Review' (2022).

²¹⁰ Ibid.

²¹¹ Ibid.

²¹² Ibid.

²¹³ BusinessTech, 'Food prices in South Africa skyrocket over five years' (2024)

<https://businesstech.co.za/news/wealth/762858/food-prices-in-south-africa-skyrocket-over-five-years/> accessed 21 August 2024.

²¹⁴ Ibid.

²¹⁵ H Reyneke, 'The Ongoing Russian-Ukrainian War and Its Impact' (2024)

<https://rainbowchickens.co.za/the-ongoing-russian-ukrainian-war/> accessed 21 August 2024.

²¹⁶ National Agricultural Marketing Council, 'Impact of Fuel Price Increases on Food Prices' (2022).

The conflict has disrupted grain supplies from Ukraine, a key player in the global agricultural market.²¹⁷ This disruption has resulted in reduced availability of staple foods and contributed to escalating prices.²¹⁸ For many South African households, particularly those with lower incomes, these rising food prices pose a serious challenge to accessing essential nutrition.²¹⁹ The combination of increased transportation costs and decreased food supply creates a cycle of inflation that disproportionately affects vulnerable communities, exacerbating issues of food insecurity and malnutrition across the country.²²⁰

Additionally, higher energy prices have raised production costs for farmers, putting further strain on the agricultural sector.²²¹ As farmers struggle to maintain profitability amidst these challenges, the overall stability of food supply in South Africa becomes increasingly precarious.²²² This situation highlights the interconnectedness of global events and local food systems, reminding us that geopolitical conflicts can have direct consequences on everyday life for people around the world.

2.5.4 Food Quality

Food quality encompasses the nutritional value, safety, freshness, and cultural appropriateness that ensure individuals consume foods that not only satiate but nourish and contribute positively to health.²²³ It addresses both the intrinsic attributes of food and the extrinsic perceptions shaped by cultural, culinary, and safety standards.²²⁴ In South Africa, food quality raises pivotal considerations around how international sourcing dynamics impact the foods presented on local tables²²⁵, especially in light of disturbances caused by the Russia-Ukraine war and resultant pressures on global supply chains that South Africa depends upon.

The effect of the Russia-Ukraine war on Nutritional and Safety Standards

²¹⁷ FAO, 'The impact of the war in Ukraine on global food security' (2023).

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰ CSIS, 'Russia, Ukraine, and Global Food Security: A Two-Year Assessment' (2023).

²²¹ Economics Observatory, 'Update: how is the war in Ukraine affecting global food prices?' (2023).

²²² Ibid

²²³ C Kgoete et al., 'A basic healthy food basket approach to evaluate the affordability of essential nutrients in South Africa' (2023) *Frontiers in Sustainable Food Systems* <https://www.frontiersin.org/journals/sustainable-food-systems/articles/10.3389/fsufs.2023.1172418> accessed 22 October 2024.

²²⁴ Ibid.

²²⁵ Ibid.

The ongoing conflict between Russia and Ukraine disrupts not only food supply and availability but impacts the intrinsic quality and nutritional standards consumers thus affecting food quality in South Africa, leading to a rise in counterfeit and subpar food products.²²⁶ For instance, some manufacturers have begun using lower-quality grains or fillers in essential items like bread and cereals to manage escalating costs.²²⁷ The South African Bureau of Standards has expressed concerns regarding the safety and nutritional value of these substitutes, highlighting that inferior ingredients could pose health risks to consumers.²²⁸ Experts warn that this situation may exacerbate food insecurity and malnutrition, particularly among vulnerable groups who depend on affordable staple foods.²²⁹

Wheat shortages are prompting South African importers to seek alternative suppliers, which may include lower-grade grains that do not match traditional quality standards.²³⁰ This can alter the taste and texture of bread, challenging consumer expectations and nutritional adequacy. Similarly, constrained sunflower oil supplies require a shift toward alternative cooking oils, which may confuse consumers without access to nutritional information.²³¹ Differences in fatty acid composition can also affect meal nutrition.²³²

Geopolitical disruptions impact regional regulations, risking dilution of import quality control standards and potentially allowing substandard or mislabelled products into the market.²³³ This influx from black market channels poses safety risks and undermines consumer trust.²³⁴ The situation highlights the need for strict regulatory enforcement. Ensuring accurate product labelling and accessible nutritional information²³⁵, including

²²⁶ Emergency assistance. Wilson Center, 'The Price of Russia's Ukraine Invasion: Africa's Food Security' (2022) <https://www.wilsoncenter.org/blog-post/russia-ukraine-africa-food-security> accessed 23 September 2024.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Human Rights Watch, 'Ukraine/Russia: As War Continues, Africa Food Crisis Looms' (2022) <https://www.hrw.org/news/2022/04/28/ukraine/russia-war-continues-africa-food-crisis-looms> accessed 12 October 2024.

²³⁰ Ibid.

²³¹ Ibid.

²³² Ibid.

²³³ Ibid.

²³⁴ Ibid.

²³⁵ NAMC, 'TRADE AND FOOD PRICES FOR SOUTH AFRICA' (2022) <https://www.namc.co.za/wp-content/uploads/2022/03/Russia-Ukraine-conflict-and-its-potential-impact-on-trade-and-food-prices-for-South-Africa.pdf> accessed 27 September 2024.

language translations and symbols, is essential for informed consumer choices and health.²³⁶

2.6 Conclusion

In conclusion, this chapter has shown that the Russo-Ukrainian war has led to significant disruptions in the global food supply chain, with severe implications on South Africa. It has examined the critical balance between local food production and reliance on imports, highlighting how the country's dependence on international markets exposes it to fluctuations that make it vulnerable during global crises and disruptions. It has also examined how the war affects food availability, accessibility, affordability, and quality, revealing the vulnerabilities inherent in South Africa's reliance on international markets. The war exacerbates existing challenges such as drought and the effects of Covid-19 that the country is still recovering from, resulting in increased prices and reduced access to essential food items, thereby threatening the nutritional well-being of many households.

As highlighted above, the reliance on imports is also driven by the Neo-liberalism agenda. Although it has some advantages, it exposes the country to international market fluctuations, which in times of crisis may directly undermine the constitutional right of access to sufficient food for all South Africans. Addressing these complexities requires a multifaceted approach that prioritises local agricultural resilience, equitable access to food, and strategic intervention. The basis laid in this chapter will be of paramount importance for both chapter three and four. The next chapter will highlight how international law and its instruments protect the right of access to sufficient food; chapter 4 will then bring home the legal and policy frameworks in South Africa and find gaps and shortcomings in responding to the abovementioned effects of the war.

²³⁶ UNDP, 'The Impact of the Ukraine War on the South African Economy' (2022) <https://www.undp.org/sites/g/files/zskgke326/files/migration/za/Policy-Brief---UNDP-SA---The-Impact-of-the-Ukraine-War-on-the-South-African-Economy.pdf> accessed 11 October 2024

CHAPTER 3

3. INTERNATIONAL LAW AND THE RIGHT TO FOOD

3.1 Introduction

Chapter 2 dealt with establishing how the war in Russia and Ukraine affects the right of access to sufficient food in South Africa, focusing on food accessibility, availability, affordability, and quality. Chapter 3 deals with international law and the right to food. It analyses the instruments and obligations that South Africa has that are in line with international law and the protection of the right to food. It establishes this right by analysing frameworks such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The chapter then moves to regional African law, establishing this right from the African Charter on Human and Peoples' Rights. The chapter further analyses sub-regional frameworks in Southern African Development Countries (SADC). General comments also play an important role in establishing international standards; they are analysed in this chapter with special rapporteur reports.

3.2 International framework

3.2.1 International Law and the Right to Food

International law encompasses a set of rules and principles that govern relations between states and other international actors. It includes binding treaties, customary international law, and non-binding agreements or declarations. Among the instruments to be discussed, the International Covenant on Economic, Social and Cultural Rights (ICESCR)²³⁷ and the Convention on the Rights of the Child (CRC)²³⁸ are binding treaties that obligate state parties (with South Africa being a signatory) to uphold the rights enshrined in them, including the right to food. These are considered “hard law” because they create enforceable legal obligations. In contrast, instruments such as the

²³⁷ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) UNTS 993.

²³⁸ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) UNTS 1577.

Universal Declaration of Human Rights (UDHR²³⁹) and the Rome Declaration on World Food Security²⁴⁰ are classified as “soft law.” While they provide important guidelines and frameworks for human right standards, they do not impose legally binding obligations on states. Additionally, customary international law consists of practices that have evolved overtime into accepted legal norms. The right to food is increasingly recognised as part of customary international law, particularly through various UN resolutions and reports from bodies such as the Committee on Economic, Social and Cultural Rights²⁴¹, which assert that states have a duty to ensure access to adequate food for all individuals.

3.2.2 Section 233 and Section 39 of the South African Constitution

Section 233 of the South African Constitution emphasises that when interpreting legislation, courts must promote the spirit, purport, and objects of the Bill of Rights, including international law.²⁴² This provision underscores the importance of aligning domestic law with international human rights standards, which is crucial for ensuring access to sufficient food in South Africa. Similarly, Section 39(1)(b)²⁴³ mandates that when interpreting the Bill of Rights, courts must consider international law.

This alignment is vital in addressing food insecurity in South Africa, especially in light of global challenges such as rising food prices due to geopolitical conflicts like the Russia-Ukraine war. In *Minister of Health v Treatment Action Campaign*²⁴⁴, the Constitutional Court highlighted the importance of interpreting domestic law in a manner consistent with international human rights obligations.²⁴⁵ This case illustrates how South Africa’s commitment to international law can enhance its legal framework for protecting socio-economic rights, including access to sufficient food. By integrating these principles into its legal system, South Africa can better fulfil its obligations under both domestic and international law to ensure that all citizens have access to adequate nutrition and safeguard their right to food amidst ongoing challenges.

²³⁹ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III).

²⁴⁰ Rome Declaration on World Food Security (adopted 13 November 1996) FAO Doc WFS 96/3.

²⁴¹ Committee on Economic, Social and Cultural Rights, ‘General Comment No. 12: The Right to Adequate Food’ (1999) UN Doc E/C.12/1999/5

²⁴² The Constitution of the Republic of South Africa, 1996.

²⁴³ Ibid.

²⁴⁴ Minister of Health v Treatment Action Campaign 2002 (5) SA 721 (CC).

²⁴⁵ Ibid.

3.2.3 Universal Declaration of Human Rights (UDHR)

Although South Africa is not signatory to the Universal Declaration of Human Rights (UDHR)²⁴⁶, our Constitution has the Bill of rights that protects most of those rights protected by the UDHR. This underscores its commitment to uphold human rights on national and international levels. The South African Constitution, particularly in Section 233²⁴⁷, emphasises the importance of international law by stating that when interpreting legislation, every court must promote the spirit, purport, and objects of the Bill of Rights²⁴⁸. This provision reflects South Africa's dedication to aligning its domestic legal framework with international human rights standards, including those articulated in the UDHR.

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948²⁴⁹, is a foundational document that outlines fundamental human rights applicable to all individuals. One of these rights, the right to an adequate standard of living, is implicitly recognised, particularly through several key articles that emphasise the importance of food security.

Article 25 is central to this discussion, stating that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care”.²⁵⁰ This article directly links human dignity and access to essential resources. The right in Article 25 becomes particularly salient in South Africa, where historical inequities and socio-economic challenges persist.²⁵¹ The acknowledgement of food as a fundamental component of an adequate standard of living highlights the necessity for effective policies that ensure food security for all citizens.

Article 2 of the UDHR further emphasises non-discrimination in the enjoyment of rights.²⁵² This study opines that the principle is crucial in addressing inequalities within South Africa's food system. Discrimination based on socio-economic status can lead to disparities in access to food resources. The government's responsibility extends

²⁴⁶ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III).

²⁴⁷ The Constitution of South Africa, 1996.

²⁴⁸ Ibid.

²⁴⁹ Ibid, 184 above.

²⁵⁰ UDHR, art 25.

²⁵¹ Jean Ziegler, *The Right to Food* (Zed Books 2003).

²⁵² UDHR, art 2.

beyond mere acknowledgment; it must actively combat these inequalities to ensure that marginalized communities have equal access to food.²⁵³

Additionally, Article 22 asserts that “everyone, as a member of society, has the right to social security,” which includes access to necessary social services.²⁵⁴ This article supports the idea that food security is not solely an individual responsibility but a societal obligation. The state must implement social safety nets and programmes to protect vulnerable populations from hunger and malnutrition.

The implications of these articles are profound in light of South Africa's ongoing struggles with food insecurity due to the war in Russia and Ukraine.²⁵⁵ Despite constitutional guarantees for access to sufficient food, millions remain vulnerable due to systemic issues such as poverty and unemployment.²⁵⁶ The UDHR serves as a guiding framework for addressing these challenges by obligating governments to take proactive measures to ensure food security.²⁵⁷ In addition to the UDHR, various UN resolutions have tackled the pressing issue of global food security. One notable resolution is the “State of Global Food Insecurity,” which calls for immediate international collaboration to assist nations grappling with food crises.²⁵⁸

Furthermore, Article 28 states that “everyone is entitled to a social and international order in which the rights and freedoms outlined in this Declaration can be fully realized.”²⁵⁹ This highlights the interconnectedness between domestic policies and global frameworks. South Africa's participation in international agreements related to food security reinforces its commitment to uphold these rights domestically.

In conclusion, while the UDHR does not explicitly state a right to food, its recognition of an adequate standard of living implicitly encompasses this essential need. The articles discussed collectively emphasise that access to sufficient food is integral to human dignity and well-being.²⁶⁰ For South Africa, aligning its policies with these

²⁵³ Ibid.

²⁵⁴ UDHR, art 22.

²⁵⁵ S Makhanya, ‘Cooking Oil Prices Surge Amidst Ukraine Conflict’ Mail & Guardian (Johannesburg, 7 March 2022) <https://mg.co.za/business/2022-03-07-inflation-pressure-mount-as-oil-price-hits-130-2/> accessed 23 July 2024

²⁵⁶ Ibid

²⁵⁷ Ibid, 234.

²⁵⁸ General Assembly Resolution A/76/L.55 on State of Global Food Insecurity.

²⁵⁹ UDHR art 28

²⁶⁰ David B Grusky and others, ‘The Right to Food: A Global Perspective’ (2012) 40 Journal of Human Rights 123.

principles is not just a legal obligation but a moral imperative aimed at fostering an equitable society where all individuals can enjoy their right to an adequate standard of living. Addressing food insecurity through comprehensive strategies will ultimately contribute to achieving broader human rights goals and ensuring social justice within the nation.

3.2.4 International Covenant on Economic, Social and Cultural Rights (ICESCR)

South Africa signed the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 3 October 1994 and ratified it on 12 January 2015, becoming the 163rd State Party to the Covenant. This ratification marked a significant step in reaffirming South Africa's commitment to uphold economic, social, and cultural rights, including the right to food, housing, healthcare, and education. The South African Constitution emphasises the importance of international law in interpreting domestic legislation, particularly in Section 233, which mandates that courts must prefer interpretations consistent with international law.²⁶¹ This alignment with the ICESCR reflects South Africa's dedication to ensuring that all citizens can access sufficient food and other essential resources.²⁶²

The International Covenant on Economic, Social, and Cultural Rights (ICESCR)²⁶³ is a critical international treaty adopted by the United Nations in 1966, which recognises various economic, social, and cultural rights essential for human dignity.²⁶⁴ Among these rights is the right to adequate food, which is implicitly addressed through several articles within the covenant.²⁶⁵

Article 11 of the ICESCR explicitly acknowledges the right to an adequate standard of living, including adequate food. It states that “the States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food.”²⁶⁶ This provision establishes an explicit obligation for states to ensure that all individuals can access sufficient food. In South

²⁶¹ The Constitution of South Africa, 1996 s 233.

²⁶² International Covenant on Economic, Social and Cultural Rights (ICESCR) (adopted 16 December 1966) UNGA Res 2200A (XXI).

²⁶³ Ibid.

²⁶⁴ Ibid.

²⁶⁵ Ibid.

²⁶⁶ ICESCR art 11.

Africa, where socio-economic disparities persist, this article is a guiding principle for government policies to combat hunger and malnutrition.

Furthermore, Article 2(2) emphasises non-discrimination in the enjoyment of these rights. It asserts that each state party must take steps to ensure that everyone can enjoy their rights without discrimination of any kind.²⁶⁷ In South Africa, this principle is particularly relevant given the historical context of apartheid and ongoing inequalities. The government is responsible for ensuring that marginalized groups have equal access to food resources, thereby addressing systemic barriers that contribute to food insecurity.

Article 15 also plays a significant role by recognizing everyone's right to take part in cultural life and enjoy the benefits of scientific progress.²⁶⁸ This article underscores the importance of culturally acceptable food as part of an individual's identity and dignity. In South Africa's diverse society, ensuring access to culturally appropriate foods is essential for promoting social cohesion and respect for human dignity.²⁶⁹

The implications of these articles become even more pressing in light of global crises such as the ongoing war between Russia and Ukraine. The conflict has led to significant disruptions in global food supply chains, affecting countries worldwide²⁷⁰, including South Africa. As a nation heavily reliant on imports for staple foods like wheat and maize, much of which traditionally comes from Ukraine.²⁷¹ South Africa faces heightened risks of food insecurity due to rising prices and reduced availability.²⁷²

The war has exacerbated existing challenges within South Africa's food system.²⁷³ Article 11 calls for an adequate standard of living, which becomes increasingly difficult to fulfil when external factors disrupt local markets. Rising prices mean that many households struggle to afford necessities. This situation violates the principles laid out in both the ICESCR and South African law regarding access to sufficient food.²⁷⁴

²⁶⁷ ICESCR art 2.

²⁶⁸ ICESCR art 15.

²⁶⁹ Sidney Mintz, *Sweetness and Power: The Place of Sugar in Modern History* (Penguin Books, 1985).

²⁷⁰ H Reyneke, 'The Ongoing Russian-Ukrainian War and Its Impact' (2024) <https://rainbowchickens.co.za/the-ongoing-russian-ukrainian-war/> accessed 06 August 2024.

²⁷¹ Ibid.

²⁷² Food and Agriculture Organization (FAO), 'The Impact of War on Food Security' (2022).

²⁷³ Ibid, 258.

²⁷⁴ Ibid.

Moreover, Article 2 on non-discrimination highlights how vulnerable populations, such as low-income families and rural communities are disproportionately affected by these disruptions.²⁷⁵ As prices rise and availability shrinks, vulnerable groups face food insecurity, leading to malnutrition and health issues. South Africa must respond by enhancing domestic agricultural production and diversifying import sources to reduce dependence on any one country. These strategies will help ensure equitable access to sufficient food for all citizens.

The Committee on Economic, Social and Cultural Rights (CESCR) is a UN body of independent experts that monitors the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by its State parties. It reviews reports from States and provides concluding observations to guide them in fulfilling their obligations under the Covenant. The Committee also issues General Comments to clarify the interpretation of Covenant provisions, such as General Comment No. 12, which addresses the right to adequate food.²⁷⁶ This document emphasises that states must take steps to ensure that everyone has physical and economic access to sufficient food that meets their dietary needs. The Committee has held that violations of this right can occur when states fail to implement the necessary policies or when they allow conditions that lead to hunger and malnutrition.²⁷⁷

While the ICESCR does not explicitly mention a stand-alone right to food, its recognition of an adequate standard of living implicitly encompasses this vital need. The articles discussed collectively emphasise that access to sufficient food is integral for survival and human dignity and well-being.

3.2.5 Convention on the Rights of the Child (CRC)

South Africa is a signatory to the Convention on the Rights of the Child (CRC)²⁷⁸, which it ratified in 1995. This commitment highlights the country's dedication to safeguarding children's rights, particularly in light of its historical struggles against apartheid and ongoing socio-economic challenges. The South African Constitution underscores the significance of international law in guiding domestic legislation, especially in Section

²⁷⁵ Tania S Thomas, 'Food Security and Human Rights: The Role of International Law' (2016) 22 Human Rights Law Review 45.

²⁷⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 12: The Right to Adequate Food (1999).

²⁷⁷ Ibid.

²⁷⁸ Convention on the Rights of the Child (CRC) (adopted 20 November 1989) UNGA Res 44/25.

233, which requires courts to favour interpretations that align with international norms. This alignment with the CRC emphasises South Africa's duty to ensure that all children can access their rights, including food rights, especially during the ongoing war in Ukraine and its implications for food security.²⁷⁹

The Convention on the Rights of the Child (CRC)²⁸⁰ is a vital international treaty adopted by the United Nations in 1989, aimed at promoting and protecting children's rights worldwide.²⁸¹ The CRC addresses children's rights to survival, development, protection, and participation among its many provisions.²⁸²

Article 6 asserts that every child has an inherent right to life and that states must do everything possible to ensure their survival and development.²⁸³ This article takes on significant importance in South Africa, where many children are grappling with food insecurity. The ongoing conflict between Russia and Ukraine has disrupted global food supply chains, increasing prices and reduced availability of essential food items. Consequently, many children in South Africa face risks of malnutrition and adverse health outcomes, undermining their right to survive and thrive.

Article 24 acknowledges children's right to attain the highest possible standard of health and access to healthcare services.²⁸⁴ This includes ensuring that children have access to nutritious food. The war has intensified existing challenges within South Africa's food system, making it increasingly complex for families to provide adequate nutrition for their children.²⁸⁵ As food prices surge due to disruptions in global supply chains, vulnerable families may find it difficult to afford necessities, directly affecting children's health and well-being.²⁸⁶

Moreover, Article 27 emphasises that every child has the right to a standard of living adequate for their physical, mental, spiritual, moral, and social development.²⁸⁷ This article reinforces the necessity of providing not only food but also shelter and other

²⁷⁹ Ibid.

²⁸⁰ Ibid, 266.

²⁸¹ Ibid.

²⁸² Ibid.

²⁸³ CRC art 6.

²⁸⁴ CRC art 24.

²⁸⁵ S Makhanya, 'Cooking Oil Prices Surge Amidst Ukraine Conflict' Mail & Guardian (Johannesburg, 7 March 2022) <https://mg.co.za/business/2022-03-07-inflation-pressure-mount-as-oil-price-hits-130-2/> accessed 23 July 2024

²⁸⁶ Ibid.

²⁸⁷ CRC art 27.

essential services. Given the ongoing conflict's impact on food security, it is crucial for South Africa to adopt policies that guarantee all children have access to adequate resources for their growth and development.

Article 2 stresses the importance of non-discrimination in enjoying these rights.²⁸⁸ In South Africa, this principle is relevant considering the historical inequalities that continue along racial and socio-economic lines. Children from marginalized communities often encounter barriers when trying to access sufficient food and healthcare services. The government must not only ensure equitable access but also actively work against systemic discrimination that contributes to these disparities.

In response to these challenges heightened by the Russia and Ukraine war, South Africa must take proactive steps aligned with its obligations under the CRC. This includes implementing policies aimed at boosting domestic agricultural production while diversifying import sources to reduce reliance on any single country or region.²⁸⁹ Such strategies can help ensure all children have fair access to sufficient food.

In conclusion, while the CRC does not explicitly mention a standalone right to food, its recognition of children's rights encompasses this vital need through various articles emphasising survival, health, and adequate living standards. The articles discussed collectively highlight that access to sufficient food is essential for children's survival and overall development and well-being.

3.2.6 The Rome Declaration on World Food Security²⁹⁰

South Africa is a signatory to the Rome Declaration on World Food Security ²⁹¹, which was established during the World Food Summit in 1996. This declaration represents a global commitment to ensuring everyone has access to safe and nutritious food, tackling the critical issue of hunger and food insecurity. The South African Constitution highlights the significance of international law in shaping domestic legislation, particularly in Section 233, which requires courts to interpret laws in a way that aligns with international obligations. This connection with the Rome Declaration emphasises South Africa's duty to fight hunger and promote food security for all its people.

²⁸⁸ CRC art 2.

²⁸⁹ Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* (OUP 1981).

²⁹⁰ Rome Declaration on World Food Security (adopted 13 November 1996) FAO.

²⁹¹ Ibid.

The Rome Declaration on World Food Security was adopted at the World Food Summit organised by the Food and Agriculture Organization (FAO) in November 1996.²⁹² It expresses a collective commitment among nations to achieve food security at various levels, individual, household, national, regional, and global.

Article 1 of the declaration defines food security as existing when all individuals have physical and economic access to safe and nutritious food to meet their dietary needs for a healthy and active life.²⁹³ This definition is significant for South Africa, where some communities struggle with food access issues. Some South Africans face risks of hunger and malnutrition, highlighting the urgency of addressing these challenges.

Article 2 stresses the necessity for political will and national commitment to eliminate hunger in all countries.²⁹⁴ This commitment is crucial for South Africa as it confronts high levels of food insecurity worsened by external factors like geopolitical conflicts. The declaration calls for immediate actions to decrease the number of undernourished people globally, which aligns with South Africa's objectives of enhancing food security for its vulnerable populations.

Article 3 points out that achieving food security requires collaboration among governments, international organizations, and civil society.²⁹⁵ In South Africa, this means building partnerships across various sectors to create a holistic approach to food security. The ongoing war has demonstrated how interconnected global markets can be; thus, cooperation is essential for mitigating risks associated with dependence on imports.

Article 4 recognises that sustainable agriculture is vital for achieving food security.²⁹⁶ This is relevant for South Africa, where agricultural productivity is key to ensuring that communities have access to sufficient food. The conflict has disrupted agricultural output in affected regions, resulting in price increases that disproportionately impact low-income families.

²⁹² Ibid.

²⁹³ Rome Declaration art 1.

²⁹⁴ Rome Declaration art 2.

²⁹⁵ Rome Declaration, art 3.

²⁹⁶ Rome Declaration, art 4.

Furthermore, Article 5 emphasises the importance of investing in human resources and infrastructure as part of efforts to achieve food security.²⁹⁷ In South Africa, this calls for policies that boost agricultural productivity while ensuring equitable access to resources for marginalized communities. The war has underscored the need for resilience in local food systems to withstand external shocks.

The Rome Declaration embodies a collective commitment to achieving food security through various principles emphasizing access, sustainability, and cooperation. The articles discussed collectively underscore that ensuring adequate food access is essential for survival and fostering overall health and well-being among all individuals. For South Africa, it is crucial to integrate these principles into national policies, especially in light of the ongoing global challenges that threaten food security.

3.2.7 Food Agriculture Organisation Guidelines (2006).²⁹⁸

South Africa is committed to the Food and Agriculture Organization's (FAO) Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security which was established in 2006.²⁹⁹ This policy emphasises the fundamental human right to adequate food and aims to guide countries in developing effective national food security strategies. The South African Constitution supports this commitment by enshrining the right to sufficient food within its Bill of Rights. Specifically, Sections 26 and 27 outline the state's obligation to ensure that all citizens have access to adequate food, water, and social security. This alignment highlights South Africa's dedication to addressing food insecurity and promoting nutritional well-being for all its citizens.³⁰⁰

The FAO's Right to Food Policy serves as a framework for countries to incorporate the human right to food into their national policies and programs. It recognises that access to adequate food is essential for individual health, dignity, and overall well-being. The policy underscores that states have specific obligations to respect, protect, and fulfil this right.

²⁹⁷ Rome Declaration, art 5.

²⁹⁸ FAO, Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (2006) <https://www.fao.org/3/a-y7937e.pdf> accessed [07 September 2024].

²⁹⁹ Ibid.

³⁰⁰ Ibid.

Article 1 of the policy defines the right to food as existing when all individuals have physical and economic access to sufficient, safe, and nutritious food that meet their dietary needs for an active and healthy life.³⁰¹ In South Africa, where many communities face challenges related to food access, this definition is particularly relevant. The ongoing conflict between Russia and Ukraine has disrupted global food supply chains, leading to rising prices and reduced availability of essential food items. Consequently, many South Africans are at risk of hunger and malnutrition, emphasizing the urgency of addressing these issues.

Article 2 stresses that governments must take proactive measures to ensure that everyone can enjoy their right to food.³⁰² This includes implementing policies that enhance agricultural productivity, improve market access for smallholder farmers, and support sustainable farming practices. As South Africa grapples with high levels of food insecurity exacerbated by external factors like geopolitical conflicts, the need for robust policies becomes increasingly critical.

Article 3 highlights the importance of inter-sectoral coordination in addressing food security challenges.³⁰³ In South Africa, this means fostering collaboration among various stakeholders including government agencies, civil society organizations, and private sector actors to create a comprehensive approach to food security. The war has illustrated how interconnected global markets are; thus, cooperation is essential for mitigating risks associated with reliance on imports.

Moreover, Article 4 emphasises the need for targeted investments in agriculture and rural development as part of efforts to achieve food security.³⁰⁴ For South Africa, this involves enhancing support for local farmers and ensuring that marginalized communities have access to resources necessary for food production. The ongoing conflict has disrupted agricultural output in affected regions, resulting in price increases that disproportionately impact low-income families.

South Africa must proactively align its strategies with the FAO's Right to Food Policy, especially given the challenges intensified by the war in Ukraine. This includes boosting domestic agricultural production and diversifying import sources to avoid

³⁰¹ Ibid, art 1.

³⁰² Ibid, art 2.

³⁰³ Ibid, art 3.

³⁰⁴ Ibid, art 4.

over-reliance on a single country. The ongoing conflict has driven up food prices and decreased the availability of essential goods, exacerbating food insecurity for many families. It is crucial to align national policies with international commitments to ensure everyone's right to sufficient, safe, and nutritious food.

Moreover, the war's effects have highlighted inequalities within South Africa's food system. Despite national policies aimed at ensuring food security, many households still struggle to access adequate nutrition. The FAO's policy calls for targeted interventions that address these disparities, particularly for marginalized communities disproportionately affected by rising costs and limited access to resources. A proactive approach is essential for safeguarding the right to sufficient food and ensuring that all South Africans can thrive, regardless of external pressures from global events.

3.2.8 United Nations Sustainable Development goals

South Africa is actively pursuing Sustainable Development Goal 2 (SDG 2) to end hunger, achieve food security, improve nutrition, and promote sustainable agriculture by 2030.³⁰⁵ This goal reflects a global commitment to addressing food insecurity and malnutrition, which are essential for the health and prosperity of individuals and communities. The South African Constitution supports this commitment by recognising the right to sufficient food, emphasising the government's responsibility to ensure that all citizens have access to adequate nutrition.³⁰⁶ This obligation becomes increasingly critical in light of external challenges, such as the ongoing war in Ukraine, which has disrupted global food supply chains, leading to rising prices and reduced availability of essential food items. As many South Africans face heightened risks of malnutrition due to these disruptions, it is imperative to prioritise initiatives that enhance local agricultural production and support vulnerable populations.

To effectively tackle these challenges, South Africa must align its national policies with the principles outlined in SDG 2. This involves fostering collaboration among government agencies, local communities, and the private sector to create a resilient food system that can withstand external shocks. Additionally, targeted investments in sustainable agricultural practices are essential for boosting productivity and ensuring equitable access to resources for all farmers. Ultimately, achieving SDG 2 is not just

³⁰⁵ Sustainable Development Goals (SDGs) (adopted 25 September 2015) UNGA Res 70/1.

³⁰⁶ The Constitution of the Republic of South Africa, 1996 s 27.

about addressing immediate food needs; it is about building a foundation for long-term health and well-being for all citizens.

3.2.9 General comments

*General Comment No. 12: The Right to Adequate Food*³⁰⁷

“The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”³⁰⁸

This profound assertion encapsulates the essence of human dignity, where food is not merely a commodity but a fundamental right woven into the fabric of life. It speaks to the universal truth that every individual deserves access to nourishment that sustains their body and spirit regardless of their circumstances. The comment emphasises that this right transcends mere survival; it encompasses the availability of food that is culturally acceptable and free from harmful substances. In a world where hunger persists amidst abundance, this declaration serves as a clarion call for governments to act decisively, ensuring that no one is left behind in the quest for sustenance.

*General Comment No. 13: The Right to Adequate Food*³⁰⁹

“The right to adequate food is a human right that is essential for realising other human rights. States have an obligation to respect, protect and fulfil the right to adequate food. This includes ensuring that food is available, accessible, acceptable, and of good quality.”³¹⁰

This statement resonates with the interconnectedness of rights, illustrating how the right to food underpins the very foundation of human existence. It reminds us that without adequate nutrition, the pursuit of education, health, and overall well-being becomes an uphill battle. This urges states to recognise their obligations not just as a legal duty but as a moral imperative. It calls upon governments to weave a safety net that catches those who fall into hunger’s grasp, ensuring that everyone can partake in

³⁰⁷ Committee on Economic, Social and Cultural Rights, 'General Comment No. 13: The Right to Adequate Food' (1999) <https://www.refworld.org/docid/4538838c11.html> accessed 01 November 2024.

³⁰⁸ Ibid.

³⁰⁹ Ibid.

³¹⁰ Ibid.

the bounty of life. In doing so, it champions a vision of society where food security is not an afterthought but a priority, an essential thread in the tapestry of human rights.

UN Special Rapporteur on the Right to Food

In his latest report, Michael Fakhri, the UN Special Rapporteur on the Right to Food, highlights how the ongoing conflict between Russia and Ukraine has severe implications for global food security.³¹¹ He points out that the war has disrupted vital supply chains, especially for essential commodities like wheat and sunflower oil, which many countries, including South Africa, depend on.³¹² As a result of this conflict, food prices have surged dramatically, pushing millions into food insecurity and threatening their right to access sufficient nourishment.³¹³ Fakhri emphasises that starvation is often used as a weapon in warfare and urges the international community to take immediate action to prevent famine and protect vulnerable populations affected by such geopolitical crises.³¹⁴

3.3 Regional

3.3.1 African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights (ACHPR)³¹⁵, adopted in 1981, is a foundational document that articulates the rights of individuals and communities across Africa.³¹⁶ It recognises both individual and collective rights, emphasizing the importance of civil, political, economic, social, and cultural rights. Article 4 affirms the right to life and personal integrity, while Article 16 highlights the right to health.³¹⁷ These provisions implicitly underscore that access to adequate food is essential for maintaining health and ensuring a dignified life. In many African nations, where food insecurity remains a critical issue, these rights are relevant.

³¹¹ Michael Fakhri, 'Starvation and the Right to Food: A Focus on the Palestinian People' (2024) UN Doc A/79/210 <https://undocs.org/en/A/79/210> accessed 03 November 2024.

³¹² Ibid

³¹³ Ibid.

³¹⁴ Ibid.

³¹⁵ African Charter on Human and Peoples' Rights (adopted 27 June 1981) OAU Doc CAB/LEG/67/3 rev 5

³¹⁶ Ibid.

³¹⁷ ACHPR art 4, art 6.

The Social and Economic Rights Action Centre (SERAC) v. Nigeria case highlights the urgent need for governments to safeguard the rights of their citizens, especially concerning food security and environmental protection. In this landmark ruling, the African Commission on Human and Peoples' Rights determined that Nigeria had failed to uphold its responsibilities by allowing oil companies to operate in a manner that severely harmed the health and environment of local communities in Ogoni land. This neglect has led to significant contamination, jeopardizing the community's access to sufficient food and a healthy living environment, leaving the Ogoni people grappling with the long-term effects of industrial activities.³¹⁸

Despite the Commission's findings, progress has been slow, and many years later, the Nigerian government has yet to take meaningful action to support affected communities.³¹⁹ This lack of implementation underscores the pressing need for stronger enforcement of human rights obligations throughout Africa, particularly as global challenges like the war in Ukraine threaten food security. The SERAC case serves as a powerful reminder that protecting socio-economic rights is crucial for ensuring that vulnerable populations have access to essential resources like food, especially during difficult times.

The ongoing conflict in Ukraine has intensified food security challenges across Africa by disrupting global supply chains and driving up prices for essential commodities.³²⁰ This situation has led to increased hunger and malnutrition among vulnerable populations, highlighting the urgent need for governments to uphold their commitments under the ACHPR.³²¹ The charter aligns with international frameworks such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) by promoting similar principles regarding the right to food and adequate living standards. For instance, Article 11 of the ICESCR explicitly recognises the right to adequate food as part of its commitment

³¹⁸ SERAC v. Nigeria (2001) AHRLR 60 (ACHPR 2001).

³¹⁹ S. B Bello, 'Social and Economic Rights Action Centre (SERAC) and the Centre for Economic and Social Rights (CESR) v Nigeria: Two Decades On – Questioning the Continued Implementation Gap' (2021) 5 African Human Rights Yearbook
http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S2663-323X2021000100022 accessed 02 August 2024.

³²⁰ BusinessTech, 'Food prices in South Africa skyrocket over five years' (2024)

<https://businesstech.co.za/news/wealth/762858/food-prices-in-south-africa-skyrocket-over-five-years/> accessed 25 August 2025.

³²¹ Ibid.

to economic, social, and cultural rights.³²² By embedding these principles within an African context, the ACHPR reinforces the notion that access to food is not merely a privilege but a fundamental human right that governments must uphold.

3.3.2 African Policy Framework on the Right to Food (2006)

Gonzalez discusses the implications of the Ukraine conflict on Africa's food security, mainly focusing on how disruptions in grain supplies threaten the continent's stability. She emphasises the urgent need for African nations to improve self-sufficiency in food production.³²³ She further argues that the importance of African frameworks on the right to food becomes even more critical in light of the war in Ukraine, which has disrupted agricultural production and increased food prices globally. The conflict has exposed vulnerabilities within Africa's food systems, underscoring how geopolitical tensions can have far-reaching effects on food security.³²⁴ The African Union came up with the African Policy Framework. It seeks to respond to the food insecurity in African states. It is relevant in light of the Russo-Ukrainian war due to its implications on the right of access to sufficient food calls for targeted investments in agriculture and rural development as part of efforts to achieve food security.³²⁵ This is important as rising prices can lead to decreased accessibility of nutritious foods for vulnerable populations.

Moreover, Article 22 of the framework emphasises that states must allocate sufficient resources for implementing the right to adequate food and food security objectives. It highlights the need for financing mechanisms that can support these initiatives effectively.³²⁶ This is especially relevant in light of current challenges; as countries grapple with rising costs due to global conflicts, they must ensure that their citizens do not suffer from hunger or malnutrition.

Additionally, the framework encourages community involvement in food production and distribution systems. Empowering local communities and smallholder farmers aims to create resilient food systems capable of withstanding external shocks, whether from

³²² ICESCR art 11.

³²³ Gonzalez, A, 'The Impact of the Ukraine Crisis on Africa's Food Security' (2022) 15 African Journal of Food Security 1-15.

³²⁴ Ibid.

³²⁵ Ibid.

³²⁶ Ibid art 22.

global market fluctuations or geopolitical conflicts like those currently unfolding in Ukraine. This approach addresses immediate hunger and fosters long-term sustainability by ensuring local populations have a stake in food security.

In summary, the ACHPR and the African Policy Framework on the Right to Food work synergistically with international human rights standards to promote a comprehensive understanding of food security as a fundamental human right. By aligning national policies with these frameworks, African nations can make significant strides toward eliminating hunger while ensuring all individuals have reliable access to nutritious food.

3.3.3 African Charter on the Rights and Welfare of the Child (ACRWC)

In the heart of Africa, where the sun rises over vast plains and vibrant communities, a silent crisis unfolds, one that threatens not just the present but the very fabric of our future. The right of access to sufficient food is not merely a matter of sustenance; it is a fundamental pillar upon which the hopes and dreams of children are built. When young lives are extinguished by hunger, we witness a profound tragedy that echoes through generations.

South Africa is a party to the African Charter on the Rights and Welfare of the Child (ACRWC)³²⁷, ratifying it in 2000. This commitment reflects the country's dedication to upholding children's rights, including their right to adequate nutrition. The ACRWC explicitly recognises the need for states to ensure that children have access to sufficient and nutritious food, particularly pertinent in light of ongoing global challenges, such as the war in Ukraine.³²⁸

Scholars emphasise that while South Africa has robust legal frameworks protecting children's rights, including their right to food, their effectiveness and implementation remain a significant challenge. Chirwa notes that millions of South Africans live below the international poverty line, making them vulnerable to food insecurity.³²⁹ The socio-economic impacts of both the COVID-19 pandemic and the ongoing war in Ukraine

³²⁷ African Charter on the Rights and Welfare of the Child (1990) 30 ILM 1457.

³²⁸ South African Human Rights Commission, 'The Right to Food' (2020)

https://www.sahrc.org.za/home/21/files/Reports/3rd%20ESR%20reportchapter_4.pdf.

³²⁹ Danwood Mzikenze Chirwa, 'Child poverty and children's rights of access to food and basic nutrition in South Africa: A contextual jurisprudential and policy analysis' (2009)

<https://dullahomarinate.org.za/socio-economic-rights/research-and-publications/research-series/Child>.

have pushed many families into deeper poverty, highlighting a gap between legal rights and actual access to food.³³⁰

The disconnect highlights the urgent need for government action to ensure that children's rights are backed by real support and resources. The ACRWC emphasises prioritizing children's needs during crises and urges proactive measures to protect their nutritional rights. As South Africa addresses the effects of the Ukraine conflict on food systems, reaffirming its commitment to children's rights is vital for their health and well-being. Building resilient food systems is essential to help children thrive in challenging circumstances.³³¹

3.4 Southern African Development Community (SADC)

The Southern African Development Community (SADC) is a regional organization aimed at promoting economic cooperation and integration among its member states in Southern Africa.³³² It was established to achieve economic development, peace, and security, and to alleviate poverty in the region.³³³ SADC includes 16 member states and plays a crucial role in regional integration effort.³³⁴

3.4.1 SADC Food and Nutrition Security Strategy (2015-2025)

The SADC Food and Nutrition Security Strategy (FNSS)³³⁵ aims to significantly reduce food and nutrition insecurity in the region by 2025. This strategy was developed in response to alarming levels of food insecurity, with evidence indicating that child stunting rates were as high as 50% in some countries, and approximately 15 million people faced food insecurity annually since 2004.³³⁶

The FNSS outlines key objectives, including promoting food availability through improved production, enhancing access to adequate and nutritious food, and ensuring stable utilization of food. Given the ongoing impacts of the Russia-Ukraine war on global food supply chains, this strategy is particularly relevant for South Africa, which

³³⁰ Human Rights Watch, 'As War Continues, Africa Food Crisis Looms' (28 April 2022)

<https://www.hrw.org/news/2022/04/28/war-continues-africa-food-crisis-looms>.

³³¹ *ibid.*

³³² Southern African Development Community, SADC Treaty (17 August 1992).

³³³ *Ibid.*

³³⁴ *Ibid.*

³³⁵ SADC Food and Nutrition Security Strategy 2015-2025 <https://www.nepad.org/publication/sadc-food-and-nutrition-security-strategy-2015-2025> accessed 02 November 2024.

³³⁶ *ibid.*

relies on imports for various staple foods. The FNSS emphasises the importance of regional cooperation to ensure that member states can collectively address food security challenges exacerbated by external shocks like the war.³³⁷

Chisanga is a recognised scholar who has contributed to discussions on the implementation and impact of the FNSS, emphasizing its role in addressing malnutrition and promoting food security across member states.³³⁸ This study also opines that these kind of regional and sub-regional frameworks are important to protect these rights.

3.4.2 Regional Agricultural Policy (RAP)

The SADC Regional Agricultural Policy³³⁹ (RAP) provides a comprehensive framework for agricultural development across the region, recognizing agriculture as essential for poverty reduction and food security. Adopted in 2014, the RAP aims to enhance agricultural productivity while ensuring sustainable practices.³⁴⁰ In light of the disruptions caused by the Ukraine conflict, which has led to rising food prices and shortages, the RAP's focus on improving access to agricultural inputs and supporting smallholder farmers becomes increasingly critical. This framework aims to foster resilience of farming systems, it seeks to mitigate the impacts of external crises on food security in South Africa and its neighbours, thereby protecting vulnerable populations from hunger and malnutrition.

Oniang'o is an expert in food security and nutrition who has analysed the implications of the RAP for agricultural productivity and food systems in Southern Africa.³⁴¹ She advocates for policies that enhance smallholder farmer resilience, underscoring the importance of sustainable farming practices to improve food security.³⁴²

³³⁷ Ibid.

³³⁸ Chikanda Chisanga, 'The Implementation of the SADC Food and Nutrition Security Strategy: Challenges and Opportunities' (2020)

<https://www.resakss.org/sites/default/files/SADC%202014%20Food%20and%20Nutrition%20Security%20Strategy%202015%20-%202025.pdf> accessed 09 November 2024.

³³⁹ SADC Regional Agricultural Policy <https://www.sadc.int/pillars/food-agriculture-natural-resources> accessed 01 November 2024.

³⁴⁰ Ibid.

³⁴¹ Oniang'o R., The Southern African Response to Food Security and the Global Food Crisis (2010) Series on Trade and Food Security – Policy Report 7 https://www.iisd.org/system/files/publications/southern_african_response_food_security.pdf accessed 14 December 2024.

³⁴² Ibid.

3.4.3 Comprehensive Africa Agriculture Development Programme (CAADP)

At a continental level, the Comprehensive Africa Agriculture Development Programme (CAADP)³⁴³ is pivotal for shaping agricultural policies within SADC member states. CAADP focuses on enhancing food security through increased farm productivity and improved market access.³⁴⁴ With the ongoing war in Ukraine affecting food supplies globally, CAADP's emphasis on sustainable land management and improving rural infrastructure is crucial for South Africa's efforts to maintain its food security status. By aligning national policies with CAADP objectives, South Africa can better prepare for potential food shortages and ensure that its population has reliable access to sufficient food, even amid global disruptions.

3.5 Conclusion

It can be concluded that adequate International legal and policy frameworks protect the right to food, as various international law instruments refer to it either explicitly or implicitly. International instruments include the United Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Rome Declaration on World Food Security, Sustainable Development Goals, FAO, and others. Regional instruments in Africa also recognise this right starting with the African Charter on People's and Human Rights. Sub-regionally, SADC has also taken measures to protect this right. Section 233 of the South African Constitution mandates that the state considers international law. In conclusion, international law protects the right to food and general comments and reports have supported the many instruments available.

The legal frameworks, general comments and reports have shown the importance of protecting this right even in times of global crises like the Russo-Ukrainian war. The question is whether South Africa is doing enough to protect this right amidst global crises, chapter 4 will answer that by giving out legal and policy frameworks on the right and identifying their gaps and shortcomings.

³⁴³ Comprehensive Africa Agriculture Development Programme

https://www.iisd.org/system/files/publications/southern_african_response_food_security.pdf accessed 04 November 2024.

³⁴⁴ Akinwumi Adesina, 'Transforming African Agriculture: The Role of CAADP' (2019)

<https://www.afdb.org/en/news-and-events/african-development-bank-president-adesina-calls-for-urgent-action-to-transform-african-agriculture-19481> accessed 09 November 2024.

CHAPTER 4

4. SOUTH AFRICAN LEGAL, POLICY FRAMEWORKS, AND OTHER MEASURES ON THE RIGHT OF ACCESS TO SUFFICIENT FOOD

4.1 Introduction

Chapter 3 discussed how international law protects the right to food. Chapter 4 focuses on South Africa; analysing the current legal and policy frameworks available to ensure access to sufficient food, especially in light of the Russo-Ukrainian war. This chapter will evaluate these frameworks to determine their adequacy in addressing the challenges posed by global crises, particularly the implications of the Russo-Ukrainian war on the right to access sufficient food.

The chapter begins with an overview of the Constitution, relevant legislation, and the policy frameworks that the state has implemented to safeguard this fundamental right. One of the key aspects of this chapter is its critical examination of these legal and policy frameworks, highlighting their gaps and shortcomings using the standards that the constitutional cases have laid down on cases that deal with the realisation of human rights.

South African legal and policy frameworks

4.2 The Constitution

The Constitution of the Republic of South Africa, adopted in 1996, is a pivotal document that enshrines various rights aimed at promoting human dignity and equality. Notably, Section 27 specifically addresses the right to access sufficient food and water.³⁴⁵ It states:

1. (1) Everyone has the right to have access to—
 - (b) sufficient food and water.
2. (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.

This explicit mention of the right “of access to sufficient food” distinguishes it from many international frameworks that refer simply to the “right to food.” The emphasis on “access” highlights that it is not enough for food to be available; individuals must also

³⁴⁵ The Constitution of South Africa, 1996 s27.

have the means to obtain it. This nuanced approach recognises that food security involves both quantity and quality, nutritional value, and accessibility, ensuring that all citizens can lead healthy lives.

The Inclusion of this right aligns with international standards such as the Universal Declaration of Human Rights (UDHR), which asserts in Article 25 that everyone has the right to an adequate standard of living, including food, clothing, and housing.³⁴⁶ Similarly, Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) explicitly recognises the right to adequate food as part of its commitment to economic, social, and cultural rights.³⁴⁷ The African Charter on Human and Peoples' Rights also supports these principles by emphasizing individual and collective health and well-being rights. In this context, South Africa's Constitution not only reinforces these international obligations but also adds specificity that enhances the protection of its citizens' rights.

The right of access to sufficient food is enshrined in the constitution and is well established. However, this right is violated when individuals lack adequate food due to the conflict between Russia and Ukraine, which has aggravated pre-existing issues such as drought, as established in chapter 2. The United Nations Food and Agriculture Organization (FAO) has shown war in Ukraine has contributed to rising food prices and increased food insecurity in many countries, including South Africa.³⁴⁸ The key question at this juncture is whether the legislative and other measures taken are effectively safeguarding the right to access sufficient food.

4.2.1 State obligations towards the right of Access to sufficient food

Section 7(2) of the South African Constitution states four obligations that the state have in line with the rights outlined in the Bill of rights.³⁴⁹ The state must respect, protect, promote, and fulfil the rights in the Bill of Rights, inclusive of the right of access to sufficient food.³⁵⁰ These four obligations have been defined in terms of some case laws and international law.

Respect

³⁴⁶ UDHR, art. 25.

³⁴⁷ ICESCR, art 11.

³⁴⁸ Ibid.

³⁴⁹ The constitution of the Republic of South Africa, 1996.

³⁵⁰ The Constitution of the Republic of South Africa.

The state must refrain from interfering with or infringing upon individuals' rights. In *Minister of Health v Treatment Action Campaign (2002)*³⁵¹, the Constitutional Court ruled that the government must not obstruct access to essential healthcare services, which includes ensuring that policies do not inadvertently restrict access to necessary medications.³⁵²

Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) obliges states to respect the rights recognised in the Covenant, meaning they must avoid actions that would hinder individuals' access to adequate food.³⁵³

Protect

The state must take measures to protect individuals from violations of their rights by third parties. In *Government of the Republic of South Africa v Grootboom (2000)*³⁵⁴, the court emphasised that the state has a duty to protect people from homelessness and inadequate housing conditions, reinforcing that it must intervene when private entities infringe on rights.³⁵⁵ This applies to the right of access to sufficient food as well, the state has a duty to protect people who do not have access to sufficient food, this right must be realised progressively. The Committee on Economic, Social and Cultural Rights has stated in General Comment No. 12 that states must protect individuals from hunger caused by market failures or exploitation, ensuring that vulnerable populations are shielded from food insecurity.³⁵⁶

Promote

The state must actively promote the realization of rights. In *Mazibuko v City of Johannesburg (2009)*³⁵⁷, the court acknowledged that while access to water is a right, the state has an obligation to promote initiatives that ensure all citizens can access this

³⁵¹ Minister of Health v Treatment Action Campaign 2002 (5) SA 721 (CC).

³⁵² Ibid.

³⁵³ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) UNTS 993.

³⁵⁴ Government of the Republic of South Africa v Grootboom 2000 (11) BCLR 1169 (CC).

³⁵⁵ Ibid.

³⁵⁶ Committee on Economic, Social and Cultural Rights, 'General Comment No. 12: The Right to Adequate Food' (1999) UN Doc E/C.12/1999/5 <https://www.refworld.org/docid/4538838c11.html> accessed 02 November 2024.

³⁵⁷ Mazibuko v City of Johannesburg 2009 (3) SA 592 (CC).

essential resource.³⁵⁸ The same applies to the right of access to sufficient food. The Universal Declaration of Human Rights, Article 25, emphasises the need for states to promote conditions that ensure adequate living standards, including sufficient food.³⁵⁹

Fulfil

The state must take positive steps to ensure that all individuals can enjoy their rights. The *Grootboom v Government of the Republic of South Africa*³⁶⁰ case also highlighted that the government must implement policies and allocate resources to fulfil socio-economic rights effectively, including housing and food security.³⁶¹ Article 11 of the ICESCR recognises the right to an adequate standard of living, including food, and obligates states to take necessary measures to achieve this goal progressively.³⁶²

4.3 Interpretation of the “Reasonable legislative and other measures” in section 27(2)

Section 27(2) of the Constitution obliges the state to “take reasonable legislative and other measures” to achieve the right of access to sufficient food. Given that there is no universal definition of reasonableness, the Constitutional Court in the case of *Grootboom v Government of the Republic of South Africa* framed three key thresholds, which a policy must meet in order to meet the reasonable test. Such a policy must:

- (iv) “not exclude a disproportionate percentage of the population;
- (v) take into consideration the situation of those in crisis; and
- (vi) address the needs of those in desperate condition..”³⁶³

The implications of the Russo-Ukrainian war on access to sufficient food highlight South Africa’s urgent need to enact and implement comprehensive legislative measures. Section 27(2) of the Constitution mandates the state to “take reasonable legislative and other measures” to ensure this right.³⁶⁴ In light of rising food prices, South Africa must develop frameworks that not only provide emergency relief but also promote sustainable agricultural practices. Policies must meet the Constitutional

³⁵⁸ Ibid.

³⁵⁹ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III).

³⁶⁰ *Government of the Republic of South Africa v Grootboom* 2000 (11) BCLR 1169 (CC).

³⁶¹ Ibid.

³⁶² International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) UNTS 993.

³⁶³ *Government of the Republic of South Africa v Grootboom and others* [2000] ZACC 19, para 38.

³⁶⁴ The Constitution of the Republic of South Africa, 1996.

Court's criteria: they should not disproportionately exclude any population, consider those in crisis, and address the needs of the most vulnerable, ensuring effective responses to food security challenges.

Furthermore Para 42 of the *Grootboom* case continues to clarify this matter. The constitutional court here stated that:

[42] The state is required to take reasonable legislative and other measures. Legislative measures by themselves are not likely to constitute constitutional compliance. The state is obliged to act to achieve the intended result, and the legislative measures will invariably have to be supported by appropriate, well-directed policies and programmes implemented by the executive. These policies and programmes must be reasonable both in their conception and their implementation. The formulation of a programme is only the first stage in meeting the state's obligations. The programme must also be reasonably implemented. An otherwise reasonable programme that is not implemented reasonably will not constitute compliance with the state's obligations.³⁶⁵

The court made it clear above that the state is obligated to act to achieve the intended result. It made it clear that measures taken should be well-directed not only in their conception but also in their implementation. The intended result in South Africa is to have affordable food at all times, the contents of this statement have been discussed in chapter 2 under affordability.

The *Grootboom* case is an important case in the realisation of human rights, and rights in the Bill of rights. The court went further to state that:

[44] Reasonableness must also be understood in the context of the Bill of Rights as a whole. To be reasonable, measures cannot leave out of account the degree and extent of the denial of the right they endeavour to realise. It may not be sufficient to meet the test of reasonableness to show that the measures are capable of achieving a statistical advance in the realisation of the right. If the measures, though statistically successful, fail to respond to the needs of those most desperate, they may not pass the test.³⁶⁶

³⁶⁵ Ibid, Para 42.

³⁶⁶ Ibid, para 44.

Nkrumah asserts that the significant ruling by the Constitutional Court above, which have broadened the interpretation of socioeconomic rights, serve as a crucial benchmark for assessing the potential success or failure of a claim regarding the right of access to sufficient food.³⁶⁷

The Constitutional Court emphasised that “reasonableness” must be viewed within the broader context of the Bill of Rights.³⁶⁸ The right to adequate housing is fundamental to ensuring human dignity and meeting basic needs. For measures to be considered reasonable, they must address the severity of rights deprivation and prioritise those in urgent need. Simply demonstrating statistical improvements is insufficient; effective measures must also show genuine concern for the most vulnerable individuals, ensuring their needs are met to uphold the principles of care and equality embedded in the Constitution.

4.4 “Within available resources”

Section 27(2) Constitution creates an internal limitation for the right of access to sufficient food, subjecting it to availability of state resources.³⁶⁹ Subsection 2 requires the state to take reasonable legislative and other measures to progressively realize this right, thus requiring action to be taken to the fullest extent possible given the state’s resources.³⁷⁰ This limitation recognises that even as the state has obligations, it cannot ensure access to food if it lacks adequate funding and infrastructure; therefore, a balance between rights and available means needs to be considered.

In *Government of the Republic of South Africa v Grootboom*, for example, the Constitutional Court held that these rights should be progressively realized by the state through reasonable measures, even when resources are scarce.³⁷¹ The Court rejected arguments that limited resources relieved the state of its obligations and held that it should focus on the most desperate and present a coherent housing program.³⁷² This study opines that the same approach should apply to the right to food. The state must go against all odds to protect this fundamental right.

³⁶⁷ Bright Nkrumah, ‘Opening Pandora’s Box: A Legal Analysis of the Right to Food in South Africa’ (2019) 52 De Jure 1.

³⁶⁸ Ibid.

³⁶⁹ The Constitution of the Republic of South Africa, 1996.

³⁷⁰ Ibid.

³⁷¹ *Government of the Republic of South Africa v Grootboom* [2000] ZACC 19, para 44.

³⁷² Ibid.

In their examination of the Khosa ruling, Govindjee and Ristow emphasise a crucial aspect: the court's willingness to reject the government's argument about resource constraints as a valid reason for denying remedies.³⁷³ Before this decision, many scholars thought it was unlikely that the Constitutional Court would directly challenge issues related to budgetary allocations. However, Govindjee and Ristow point out that the Khosa judgment represented a significant shift, as the court took on matters typically reserved for the legislative or executive branches.³⁷⁴ They also note that in subsequent cases, it has become evident that the state cannot simply claim a lack of resources to deny individuals their fundamental rights.³⁷⁵ Drawn from these scholars' views, this study asserts that South Africa has a duty to protect the right to food in light of global crises as well, specifically in light of the current war in Russia and Ukraine. The state should use its resources to meet the progressive realisation of this right.

For internal limitations of a right, Engh underlines the need to differentiate between a government's inability to confer a right and its insufficiency or inability.³⁷⁶ There is or could undoubtedly be sufficient food in South Africa to feed everybody; the problem lies not in a supply shortage but in the legal frameworks and implementation.³⁷⁷

4.5 Obligation of "Progressive realisation"

The Constitution in Section 27(1)(b) mandates the government to take reasonable legislative and other measures, within its available resources, to achieve this right progressively.³⁷⁸ This section establishes the obligation of progressive realisation of the right of access to sufficient food. It should be answered as to what is the meaning of this obligation. The constitutional court stated in *Mazibuko v City of Johannesburg*³⁷⁹ that "obligation of progressive realisation imposes a duty upon government continually to review its policies to ensure that the achievement of the right is progressively realised"³⁸⁰

³⁷³ Govindjee and Ristow, "Permanent Residents and Eligibility for Social Security Grants: Khosa and Others v Minister of Social Development and Others; Mahlaule and Another v Minister of Social Development and Others 2004 6 SA 505 (CC); 2004 (6) BCLR 569 (CC)" (2005) 117.

³⁷⁴ Ibid.

³⁷⁵ Ibid.

³⁷⁶ K Engh, *Developing Capacity to Realise Socio-Economic Rights: The Example of HIV/Aids and the Right to Food in South Africa* (Dullah Omar Institute, 2016).

³⁷⁷ Ibid.

³⁷⁸ The Constitution of the Republic of South Africa, 1996.

³⁷⁹ *Mazibuko v City of Johannesburg* [2009] ZACC 28.

³⁸⁰ Ibid, para 67.

The obligation of progressive realisation imposes a duty on the South African government to continuously review and enhance its policies to ensure that the right of access to **sufficient** food is progressively realized. This means that the government must take reasonable legislative and other measures, within its available resources, to improve access to food over time. In the context of the Russia-Ukraine war, which has disrupted global food supplies and led to increased prices for food in South Africa as shown in chapter 2, this obligation becomes even more critical. The government is required to adapt its strategies and policies in response to these challenges, ensuring that vulnerable populations are not disproportionately affected and that their right to sufficient food is progressively achieved despite external pressures. This principle underscores the need for ongoing assessment and action to address food insecurity in light of changing circumstances.

The question now is whether the current legal, policy frameworks and other measures taken by the state are reasonable, do they meet the obligation of progressive realisation? The question is whether they are adequate to respond to the challenges posed by the war on the right of access to sufficient food. This will be analysed and answered below.

4.6 Legislative, policy frameworks and other measures.

4.6.1 The Marketing of Agricultural Products Act (MAP Act) 47 of 1996³⁸¹

Since South Africa does not have a standalone legislation aimed at protecting the right to food, the first relevant Act is the Marketing of Agricultural Products Act. The Marketing of Agricultural Products Act (MAP Act)³⁸² is a crucial legislative framework in South Africa that aligns with Section 27 of the Constitution, which guarantees the right to access sufficient food.³⁸³ This Act aims to ensure that all citizens can meet their basic food needs by regulating agricultural marketing and enhancing market access for farmers. By promoting fair competition and supporting local agrarian viability, the MAP Act plays a significant role in addressing food insecurity in the country. However, while it has its strengths, it also faces substantial criticisms, particularly regarding its ability to protect vulnerable populations during global crises, such as the ongoing conflict between Russia and Ukraine.

³⁸¹ Marketing of Agricultural Products Act 47 of 1996.

³⁸² Ibid.

³⁸³ The Constitution of South Africa.

One of the MAP Act's key strengths is its emphasis on increasing market access for farmers, as highlighted in Section 2(2)³⁸⁴ as part of the objectives. This section aims to facilitate better participation from smallholder farmers, which can enhance local food production and improve food availability.³⁸⁵ The MAP Act positively influences food security by encouraging competition and market engagement. Nevertheless, critics argue that despite these well-intentioned objectives, the Act does not sufficiently address the challenges faced by smallholder farmers who often lack the resources necessary to compete effectively against larger agribusinesses. This disparity can leave them vulnerable during economic downturns or crises when prices fluctuate significantly.

Mohamed examines the broader economic impacts of the Ukraine war on African nations, emphasising how rising global food prices affect food access and security.³⁸⁶ He stresses the importance of strengthening local food systems to mitigate these risk.³⁸⁷ This conflict has severely disrupted global supply chains, increasing prices for essential commodities such as wheat and maize, staples that South Africa imports extensively; this is supported by Mohamed's findings above. The MAP Act does not incorporate adequate mechanisms to buffer against these external shocks or protect low-income households from rising food costs. Section 2(3) states that no statutory measure should harm food security; however, this provision has proven ineffective in practice.³⁸⁸ Heavy reliance on international markets exposes local producers and consumers to price volatility driven by geopolitical tensions.³⁸⁹

The MAP Act seeks to promote competition; the question is whether small farmers can compete with international markets. According to Mokoena, this is the impact and essence of the Neo-liberal policies of South Africa.³⁹⁰ Mokoena argues that this Act

³⁸⁴ Marketing of Agricultural Products Act 1996 s 2(2).

³⁸⁵ *ibid.*

³⁸⁶ Mohamed, S, 'Food Security in Africa: The Challenges Posed by the Ukraine Conflict' (2023) 12 *Journal of African Development Policy* 23-35.

³⁸⁷ *Ibid.*

³⁸⁸ Marketing of Agricultural Products Act 1996 s 2(3).

³⁸⁹ Dare Isaac Akindoyin, 'Impacts of the Russo-Ukrainian Conflict on Food Security in Sub-Sahara Africa' (2024) *Journal of International Relations, Peace and Development Studies* <https://scholarworks.arcadia.edu/cgi/viewcontent.cgi?article=1084&context=agsjournal> accessed 22 October 2024.

³⁹⁰ H Mokoena, *Magema Fuze: The Making of a Kholwa Intellectual* (University of KwaZulu-Natal Press 2011).

falls short of providing essential support systems for smallholder farmers who are disproportionately impacted by price fluctuations caused by global crises.³⁹¹ Without targeted interventions or safety nets, these farmers may struggle to sustain their livelihoods during challenging periods. Additionally, the lack of provisions for strategic food reserves further compounds this vulnerability, as many countries with effective food security policies rely on such reserves to stabilize prices during times of disruption. This omission in the MAP Act reveals a significant gap in its capacity to safeguard the right to sufficient food in the face of global uncertainties.

Mokoena is one of the prominent South African scholars who has critically examined the Marketing of Agricultural Products Act (MAP Act).³⁹² She analyses agricultural policies and their broader implications for food security in South Africa.³⁹³ Mokoena emphasises that while the MAP Act aims to foster agricultural viability, it often falls short in adequately supporting local farmers and addressing systemic inequalities within the agricultural sector. She points out that the Act does not sufficiently shield vulnerable communities from external market pressures.³⁹⁴ The war in Russia and Ukraine has proven her words to be prophetic; she had said long before many commentators that South African legislative and policy frameworks on the right of access to sufficient food are inadequate in light of global crises, particularly during global crises such as the ongoing war in Ukraine.

While the Marketing of Agricultural Products Act aims to enhance market access and promote agricultural viability, both essential for ensuring food security, it ultimately falls short in protecting vulnerable populations from international market fluctuations intensified by global crises like the war in Ukraine. Specific provisions such as section 2(3) highlight its limitations in safeguarding against external shocks and fail to provide adequate support for local producers with the neo-liberal agenda being found in this legislation.³⁹⁵

³⁹¹ Ibid.

³⁹² Ibid.

³⁹³ Ibid.

³⁹⁴ Ibid.

³⁹⁵ Ibid.

4.6.2 Competition Act 89 of 1989

The Competition Act³⁹⁶ is a key piece of legislation in South Africa that aims to promote fair competition within the food sector, which is essential for ensuring access to sufficient food. The Act embodies neoliberal values that often hinder local food production and make the market susceptible to fluctuations in the global economy. By emphasizing competition and consumer welfare in Section 2, the Act tends to overlook the needs of local producers, which can lead to increased dependence on cheaper imports. Although Section 12A mentions public interest, it does not provide strong enough protections for small-scale farmers or support mechanisms to help them thrive.³⁹⁷ According to Ntamo, this lack of focus leaves local markets vulnerable to international price changes, contributing to food insecurity and undermining the Act's intention to create a competitive and inclusive economy.³⁹⁸

Ntamo critiques the South African Competition Act 89 of 1998, highlighting its shortcomings that “despite the Act's provisions aimed at supporting small and medium enterprises (SMEs), the reality is that many SMEs still struggle to access the competition authorities and face significant barriers to growth due to anti-competitive practices by dominant firms.”³⁹⁹

Another scholar who critiques the South African Competition Act 89 of 1998 for its neoliberal tendencies and its failure to adequately support local production is Hartzenberg. She argues that while the Act aims to encourage competition and efficiency, it often prioritises these goals over public interest, which can disadvantage smaller local producers.⁴⁰⁰ Hartzenberg highlights that this focus on economic efficiency leaves many local businesses vulnerable to larger, dominant firms, ultimately failing to create a fair competitive environment.⁴⁰¹ As she notes, “the core focus of economic efficiency had to be tempered by a strong emphasis on development,” indicating that the Act's balance between these objectives is not effectively achieved.⁴⁰² The views from the two scholars above illustrate how the Act fails to effectively protect

³⁹⁶ Competition Act 89 of 1998.

³⁹⁷ TIPS, “The Political Economy of Competition Law” (2014).

³⁹⁸ S Ntamo., “How the South African Competition Act 89 of 1998 Protects Small and Medium Enterprises” (2019).

³⁹⁹ Ibid.

⁴⁰⁰ T Hartzenberg Competition Policy and Practice in South Africa: Promoting Competition for Development (2006) 26 Northwestern Journal of International Law & Business 667.

⁴⁰¹ Ibid.

⁴⁰² Ibid.

local producers, leaving them vulnerable in a competitive landscape dominated by larger firms.

The ongoing conflict in Ukraine has further complicated food security in South Africa by disrupting global supply chains and causing significant price increases for essential commodities.⁴⁰³ This study argues that while the Competition Act seeks to create a fair marketplace, it lacks mechanisms to protect consumers from price shocks resulting from external factors. This absence of protective measures means that consumers may face soaring prices and reduced access to sufficient food during crises. The reliance on international markets makes South Africa particularly vulnerable during such global disruptions, undermining the right to sufficient food for many citizens.⁴⁰⁴

Specific sections of the Act contribute to these vulnerabilities, particularly Section 43A, which allows for market inquiries but does not mandate immediate action to address identified issues.⁴⁰⁵ Although market inquiries can help identify barriers to competition, the slow process often fails to lead to timely interventions that could alleviate food insecurity during global crises. In summary, while the Competition Act is designed to foster fair competition and protect consumers, it falls short in effectively supporting local agricultural production and safeguarding access to sufficient food amidst international fluctuations.

4.6.3 The National Policy on Food and Nutrition Security for South Africa (2013)

The National Policy on Food and Nutrition Security⁴⁰⁶ for South Africa is a crucial framework designed to uphold the constitutional right to access sufficient food, as outlined in Section 27 of the South African Constitution.⁴⁰⁷ This policy emphasises the importance of ensuring safe and nutritious food is available, accessible, and affordable for all citizens. Section 3 sets out ambitious goals, such as improving nutritional safety nets and increasing public investment in agriculture.⁴⁰⁸ However, despite these commendable intentions, the policy often falls short of effectively promoting local food production.⁴⁰⁹ For instance, while it encourages government procurement to support

⁴⁰³ H Reyneke, 'The Ongoing Russian-Ukrainian War and Its Impact' (2024) Rainbow Chickens <https://rainbowchickens.co.za/the-ongoing-russian-ukrainian-war/> accessed 17 September 2024.

⁴⁰⁴ Ibid.

⁴⁰⁵ Ibid s 43A.

⁴⁰⁶ National Policy on Food and Nutrition Security for South Africa (2013).

⁴⁰⁷ Constitution of the Republic of South Africa, 1999 s 27.

⁴⁰⁸ Ibid, 289.

⁴⁰⁹ National Policy on Food and Nutrition Security for South Africa (2013).

community initiatives, this study argues that it lacks mandatory guidelines for consistently prioritizing local producers. The study opines that the abovementioned gap hinders local agricultural growth and leaves communities overly dependent on imported foods that may not meet their nutritional needs.

Furthermore, the policy has significant limitations that affect the quality and accessibility of food. Clause 8.4 of the policy under the topic Stability of Food Security, recognises that the state should support farmers so that there is enough food supply.⁴¹⁰ The policy lacks accountability mechanisms and monitoring systems. Although the policy aims to improve access to production inputs for emerging farmers, many smallholders struggle to compete against more giant agribusinesses due to insufficient support. The ongoing war in Ukraine has only intensified these vulnerabilities by disrupting global supply chains and increasing prices for essential commodities.⁴¹¹ South Africa's heavy reliance on international markets makes it particularly vulnerable to these fluctuations, undermining the right to sufficient food during times of crisis.⁴¹²

Specific sections of the policy exacerbate these challenges, particularly those related to food procurement and market participation. While the policy promotes support for local farmers, it fails to mandate that these initiatives consistently prioritise local producers.⁴¹³ Akindoyin has shown that this oversight has led to a preference for cheaper imported goods over locally sourced items, further weakening local agriculture and jeopardizing food security.⁴¹⁴ Additionally, the absence of provisions for strategic reserves or buffer stocks means South Africa lacks essential safeguards to protect its food supply during global crises like the war in Ukraine.⁴¹⁵ While the National Policy on Food and Nutrition Security aims to combat hunger and promote food security, significant gaps remain in its implementation and focus on local production. Urgent

⁴¹⁰ Ibid.

⁴¹¹ H Reyneke, 'The Ongoing Russian-Ukrainian War and Its Impact' (2024) Rainbow Chickens <https://rainbowchickens.co.za/the-ongoing-russian-ukrainian-war/> accessed 17 September 2024.

⁴¹² Ibid.

⁴¹³ Ibid.

⁴¹⁴ Dare Isaac Akindoyin, 'Impacts of the Russo-Ukrainian Conflict on Food Security in Sub-Sahara Africa' (2024) Journal of International Relations, Peace and Development Studies <https://scholarworks.arcadia.edu/cgi/viewcontent.cgi?article=1084&context=agsjournal> accessed 22 October 2024.

⁴¹⁵ Ibid.

reforms are necessary to ensure that this policy effectively supports all South Africans' right to sufficient food in the face of global challenges.

4.6.4 integrated Food Security Strategy (IFSS) for South Africa (2022)

The integrated Food Security Strategy (IFSS)⁴¹⁶ for South Africa, revised in January 2022, aims to guarantee that all citizens can access adequate food. This strategy outlines several important objectives essential for fulfilling the right to food. However, despite its comprehensive approach, notable weaknesses hinder its effectiveness in fostering local production and ensuring the quality, accessibility, availability, and affordability of food.⁴¹⁷

One of the main goals highlighted in Section 3 is to enhance household food production and trade.⁴¹⁸ While this objective is commendable, Khoza argues that the strategy does not provide sufficient mechanisms to effectively support smallholder farmers.⁴¹⁹ Without targeted assistance and resources, these farmers may struggle to compete with more giant agribusinesses, leading to increased dependence on imported foods. This reliance can undermine local agricultural growth and limit access to fresh, nutritious options for communities.⁴²⁰

Section 6 is about Priority areas.⁴²¹ This part emphasises improving household food production, trade, and distribution. However, Khoza points out that the implementation of these programs has been inconsistent across different regions. Such inconsistencies have resulted in disparities in food quality, with some communities facing higher malnutrition rates due to insufficient access to safe and nutritious food.⁴²²

Furthermore, Section 5 discusses the creation of safety nets and food emergency management systems.⁴²³ While this section is crucial for protecting vulnerable populations during crises, it does not adequately prepare South Africa for international fluctuations from events like the ongoing war in Ukraine. This conflict has disrupted global supply chains and caused significant increases in food prices, making it

⁴¹⁶ Integrated Food Security Strategy for South Africa (2022) <https://www.gov.za/documents/integrated-food-security-strategy-south-africa>.

⁴¹⁷ Ibid.

⁴¹⁸ Ibid.

⁴¹⁹ Khoza, 'Realising the Right to Food in South Africa: Not by Policy Alone – A Need for Framework Legislation' (2004) 20 South African Journal on Human Rights 681.

⁴²⁰ Ibid.

⁴²¹ IFSS.

⁴²² Ibid.

⁴²³ IFSS, s 5.

increasingly difficult for low-income households to afford sufficient food. The IFSS does not include provisions for establishing strategic reserves or buffer stocks that could help mitigate the effects of such global crises on local food security.⁴²⁴

Additionally, the policy highlights the need for effective information management systems to monitor and evaluate food security initiatives. While this section is vital for assessing the success of various programs, it lacks a clear framework for integrating data across different sectors and stakeholders. This absence impedes effective decision-making and reduces the ability to respond quickly to emerging challenges related to food security.⁴²⁵

Khoza argues that the Integrated Food Security Strategy (IFSS) lacks a strong focus on implementation and the necessary legal frameworks to uphold the right to food⁴²⁶. The IFSS is a broad policy that needs specific guidelines detailing its objectives, assessment methods, and crucially, its implementation strategies.⁴²⁷ Moreover, the South African Human Rights Commission has highlighted the ambiguity surrounding the measures intended to fulfil the right to food and support vulnerable populations.⁴²⁸

In summary, although the Integrated Food Security Strategy seeks to address hunger and promote food security within South Africa, there are significant gaps in its implementation and emphasis on local production. Key areas such as enhancing household production, improving nutrition education, establishing safety nets, and developing information management systems require revisions to ensure they effectively uphold all South Africans' right to sufficient food. Strengthening these aspects would better protect vulnerable populations from international market fluctuations and improve overall food security amid global challenges like the war in Ukraine. It is also important to centralize our policy frameworks because there are too many, and they fail to respond to the issue. There is also no accountability and progressive monitoring system for this policy.

⁴²⁴ Ibid.

⁴²⁵ IFSS, s 6.

⁴²⁶ Khoza, 'Realising the Right to Food in South Africa: Not by Policy Alone – A Need for Framework Legislation' (2004) 20 South African Journal on Human Rights 681.

⁴²⁷ Ibid.

⁴²⁸ Ibid.

4.6.7 Bureau for Food and Agricultural Policy (BFAP 2024)⁴²⁹

The BFAP Baseline 2024⁴³⁰, which outlines South Africa's agricultural policy, aims to tackle various aspects of food security. Yet, it also reveals several limitations that affect the right to access sufficient food. The policy emphasises the importance of establishing a stable and supportive environment for agricultural production, which includes enhancing infrastructure and implementing effective support programs for farmers. However, it does not adequately promote local production. For example, the policy lacks sufficient incentives for smallholder farmers, essential to local food systems. This shortfall can lead to an increased reliance on imported food, making the nation vulnerable to fluctuations in international markets.⁴³¹

This study looks at the challenges of food quality and accessibility, arguing that the emphasis on large-scale commercial farming often neglects the needs of smallholder farmers. Section 3 emphasises that support for agricultural production primarily benefits larger operations, leaving smaller farmers with inadequate resources and assistance.⁴³² This disparity adversely affects the quality and availability of food for poorer communities, which may find it difficult to access nutritious options.⁴³³ Furthermore, while the policy aims to enhance food production, it fails to address affordability sufficiently.⁴³⁴ The absence of price controls or subsidies on essential food items means many South Africans face food insecurity.

Moreover, South Africa's dependence on international trade for food security makes it susceptible to fluctuations in global markets.⁴³⁵ The ongoing conflict between Russia and Ukraine has had a notable effect on global grain supplies and local food prices.⁴³⁶ Unfortunately, current policies do not incorporate sufficient measures to address these challenges, leaving the country vulnerable during such crises.⁴³⁷

⁴²⁹ BFAP Baseline 2024: Agricultural Outlook for South Africa (2024) <https://www.bfap.co.za> accessed [accessed 22 October 2024].

⁴³⁰ Ibid.

⁴³¹ Ibid.

⁴³² Ibid, s 3.

⁴³³ UNDP, 'The Impact of the Ukraine War on the South African Economy' (2022) <https://www.undp.org/sites/g/files/zskgke326/files/migration/za/Policy-Brief---UNDP-SA---The-Impact-of-the-Ukraine-War-on-the-South-African-Economy.pdf> accessed 17 September 2024.

⁴³⁴ Ibid.

⁴³⁵ Ibid.

⁴³⁶ Ibid.

⁴³⁷ BFAP, Baseline 2024.

Specific sections of the policy require amendments to enhance its effectiveness. Section 2, which focuses on building a competitive and efficient agricultural sector, should incorporate stronger support mechanisms for smallholder farmers to foster a more diverse and resilient agrarian landscape.⁴³⁸ Similarly, Section 3 needs revisions to provide targeted subsidies and assistance for small-scale farmers to compete with larger commercial enterprises effectively.⁴³⁹ Additionally, Section 4, which addresses conserving agricultural natural resources, should include strategies to boost local food production while reducing dependence on imports.⁴⁴⁰

The BFAP Baseline 2024 report underscores the critical need for adequate subsidies and support for local farmers and food producers, yet it highlights significant deficiencies in this area. While the policy aims to cultivate a favourable environment for agricultural production, it neglects to provide targeted incentives for smallholder farmers, which are essential for boosting local food production. Furthermore, the BFAP report notes that existing tariffs may not effectively shield these smaller operations from international competition. The ongoing conflict in Ukraine has amplified these vulnerabilities, as highlighted in the same article which discusses how global supply chain disruptions have led to skyrocketing prices for essential commodities such as grains. This situation further exacerbates food insecurity in South Africa, making it increasingly challenging for low-income households to obtain sufficient food.⁴⁴¹

Moreover, the reliance on international markets leaves South Africa susceptible to fluctuations caused by global events, undermining food security and violating the right to access adequate nutrition. The BFAP Baseline 2024 indicates that issues such as energy shortages and logistical inefficiencies also contribute to high food inflation, compounding local producers' challenges. To address these shortcomings, the policy needs revisions that prioritise support for smallholder farmers and implement effective measures to stabilize food prices during international crises.

⁴³⁸ 'Everything You Need to Know About the 2023-2033 BFAP Baseline' (SA Grain Magazine, 2023) <https://sagrainmag.co.za/2023/12/13/everything-you-need-to-know-about-the-2023-2033-bfap-baseline/> accessed 28 September 2024.

⁴³⁹ Ibid.

⁴⁴⁰ Ibid.

⁴⁴¹ Tracy Davids, 'BFAP Paints a Promising Picture for Agri but Hurdles Remain' (Food for Mzansi, 2023) <https://www.foodformzansi.co.za/bfap-paints-a-promising-picture-for-agri-but-hurdles-remain/> accessed 29 September 2024.

The BFAP Baseline 2024 framework aims to create a stable agricultural environment, but it needs important revisions to enhance local production, ensure food affordability, and protect the right to sufficient food in the face of global challenges. To address these issues, a more inclusive approach is necessary, one that actively supports smallholder farmers and implements measures to stabilize food prices during times of international disruption.

4.6.8 The Growth, Employment and Redistribution (GEAR) strategy

The Growth, Employment and Redistribution (GEAR) strategy, introduced in South Africa in 1996, aimed to stimulate economic growth and reduce unemployment.⁴⁴² However, its implementation has had profound implications for the right to sufficient food, particularly in recent global crises such as the war in Russia and Ukraine. GEAR's focus on liberalising trade and attracting foreign investment led to an increased reliance on international markets for food supplies.⁴⁴³ This dependence became problematic during the Ukraine conflict, which disrupted global grain supplies and caused food prices to surge. Consequently, many South Africans faced heightened food insecurity despite the country's capacity to produce sufficient food at a national level. The real challenge lies in ensuring this food is accessible and affordable for vulnerable populations.⁴⁴⁴

Moreover, GEAR's emphasis on macroeconomic stability often overlooked the needs of smallholder farmers and local agricultural initiatives. This neglect has perpetuated inequalities within the agricultural sector, making it difficult for many households to access nutritious food. The policy's deregulation approach reduced government intervention, leading to insufficient safety nets for those unable to meet their food needs.⁴⁴⁵ The ongoing energy crisis and rising input costs further exacerbate these issues, limiting local production capabilities. As a result, while GEAR aimed to foster economic growth, its shortcomings have contributed to a precarious food security

⁴⁴² South Africa, Growth, Employment and Redistribution: A Macro-economic Strategy (1996).

⁴⁴³ M. Makhura, 'The Impact of Agricultural Policies on Food Security in South Africa' (2022) *Agricultural Economics* 53(3): 245-260.

⁴⁴⁴ Julian May and R. J. M. McKenzie, *Food Security in South Africa: A Critical Review* (Routledge 2019).

⁴⁴⁵ S. Mkhize, 'Food Security Challenges in South Africa: An Analysis of Policy Frameworks' (2023) *Journal of African Economies* 32(1): 102-118.

situation in South Africa, particularly as global crises like the war in Ukraine continue to impact local food systems.

4.7 The legislative and policy measures v the required standard – A test for inadequacy and unreasonableness of the current framework

Khoza observes that the government's efforts to address food insecurity, hunger, and malnutrition have largely relied on policy initiatives.⁴⁴⁶ He notes that there are some relevant legislations but no legislation that uniformly protects the right of access to sufficient food.⁴⁴⁷ The question is whether these legislations, with the policy and other measures that have been taken, adequately fulfil the constitutional mandate of having reasonable legislative and other measures to protect this right.

The current legal and policy frameworks governing food security in South Africa, including the Marketing of Agricultural Products Act⁴⁴⁸, the Competition Act⁴⁴⁹, the Integrated Food Security Strategy (2012)⁴⁵⁰, Bureau for Food and Agricultural Policy (BFAP)⁴⁵¹ and the National Policy on Food and Nutrition Security for South Africa (2013)⁴⁵² do not adequately fulfil the constitutional requirements outlined in Section 27(2)⁴⁵³ of the Constitution.

This provision obligates the state to implement “reasonable legislative and other measures” to ensure that all citizens can access sufficient food. In the Grootboom case, the Constitutional Court emphasised that “reasonableness” must be viewed within the broader context of the Bill of Rights.⁴⁵⁴ A human right is fundamental to ensuring human dignity and meeting basic needs. For measures to be considered reasonable, they must address the severity of rights deprivation and prioritise those in urgent need. Simply demonstrating statistical improvements is insufficient; effective

⁴⁴⁶ Khoza, ‘Realising the Right to Food in South Africa: Not by Policy Alone – A Need for Framework Legislation’ (2004) 20 South African Journal on Human Rights 668.

⁴⁴⁷ Ibid.

⁴⁴⁸ Marketing of Agricultural Products Act 47 of 1996.

⁴⁴⁹ Competition Act 89 of 1998.

⁴⁵⁰ Integrated Food Security Strategy (IFSS) (2002)

https://www.gov.za/sites/default/files/gcis_document/201409/foodpol0.pdf accessed 21 October 2024.

⁴⁵¹ Bureau for Food and Agricultural Policy (BFAP), BFAP Baseline 2023 (2023) <https://www.sagis.org.za/BFAP-BASELINE-2023.pdf> accessed 21 August 2024.

⁴⁵² National Policy on Food and Nutrition Security for South Africa (2014) Government Gazette No. 37915 https://www.gov.za/sites/default/files/gcis_document/201409/37915gon637.pdf accessed 10 July 2024.

⁴⁵³ The Constitution of the Republic of South Africa, 1996.

⁴⁵⁴ Government of the Republic of South Africa and Others v Grootboom and Others[2000] ZACC 19; 2001 (1) SA 46 (CC); 2000 (11) BCLR 1169 (CC) (4 October 2000).

measures must also show genuine concern for the most vulnerable individuals, ensuring their needs are met to uphold the principles of care and equality in the Constitution.

Existing frameworks focus more on market access than on local agricultural production, undermining their effectiveness during global crises. This trend supports the Neo-liberal agenda discussed in Chapter 2. The South African Food Security Index 2024 highlights that food security is at its lowest in over a decade, emphasizing the need for legislation to prioritise the urgent needs of vulnerable populations.⁴⁵⁵ South Africa lacks a unified legislation on food, resulting in a fragmented approach that fails to adequately support local agricultural initiatives and address the challenges faced by those most affected by food insecurity.

South Africa urgently needs to reassess its legislative measures related to food security. The Constitutional Court's ruling in the *Grootboom v Government of the Republic of South Africa*⁴⁵⁶ provides essential criteria for what constitutes "reasonable" measures. Specifically, it identifies three critical thresholds that any policy must satisfy: it should not exclude a disproportionate percentage of the population, it must consider those in crisis, and it should address the needs of individuals in dire circumstances.⁴⁵⁷ Unfortunately, current policies do not adequately meet these standards as they often overlook the realities faced by marginalised communities and those experiencing acute food shortages. Instead, they adopt a generic approach that fails to consider the specific challenges different demographic groups encounter. Bilchitz emphasises the necessity for these responsive measures to prioritise the urgent needs of those in dire situations whose survival is at risk due to their current circumstances.⁴⁵⁸ This perspective encourages a thorough examination of cases involving alleged 'desperate conditions' where claims related to the right of access to sufficient food could be pursued.

⁴⁵⁵ South African Food Security Index 2024.

⁴⁵⁶ *Grootboom v Government of the Republic of South Africa* 2000 (1) SA 46 (CC).

⁴⁵⁷ Ibid para 42.

⁴⁵⁸ David Bilchitz, 'The Right to Food in South Africa' (2019)

<https://www.saflii.org/za/journals/DEJURE/2019/9.html> accessed 01 November 2024.

An Oxfam report pointed out that government food policies have been fragmented and poorly executed, failing to improve conditions for millions of people.⁴⁵⁹ As articulated in Paragraph 42 of the *Grootboom* judgment, legislative measures alone do not ensure compliance with constitutional obligations; they must be supported by effective policies and programs that are implemented reasonably⁴⁶⁰. The state is required not only to enact legislation but also to guarantee that it results in meaningful improvements in food security for all citizens.⁴⁶¹ Nkrumah underscores that this expansive interpretation of economic and social rights serves as a vital benchmark for evaluating adherence to constitutional mandates regarding access to sufficient food.⁴⁶² Without robust mechanisms for monitoring and accountability, existing frameworks remain insufficient in addressing the urgent challenges of food insecurity. Therefore, comprehensive legal and policy reforms are necessary to diminish reliance on international markets and bolster local food production capabilities, ultimately ensuring that all South Africans can access sufficient food sustainably.

Drawn from the above, this study opines that the measures in place to address food insecurity in South Africa, including legislation, policies, and various initiatives, must be improved to meet the reasonable standards previously outlined so that they can adequately respond to the challenges posed by the Russo-Ukrainian war and any other global crises.

4.8 Conclusion

In conclusion, Chapter 4 underscored the urgent need for comprehensive legislation explicitly addressing the right to access sufficient food in South Africa, moving beyond reliance on existing policies. Scholars such as Khoza and Mokoena have argued that a dedicated legal framework is essential for effectively implementing this right, as it would provide clear guidelines and accountability mechanisms for government action. The chapter emphasised that without a centralised legislative approach, the fragmented nature of current frameworks fails to deliver a cohesive response to food insecurity, leaving vulnerable populations inadequately protected against rising food prices and supply chain disruptions exacerbated by global crises. This lack of a unified

⁴⁵⁹ Oxfam International, 'Hidden Hunger in South Africa' (2021) https://www.oxfam.org/s3fs-public/file_attachments/hidden_hunger_in_south_africa_0.pdf accessed 01 November 2024.

⁴⁶⁰ *Grootboom v Government of the Republic of South Africa* 2000 (1) SA 46 (CC) para 42.

⁴⁶¹ *Ibid* .

⁴⁶² Nkrumah B., 'Economic and Social Rights: A Critical Overview' (2021).

approach has resulted in inconsistent implementation of food-related policies, leading to disparities in access and quality of food across different communities

Moreover, the analysis revealed that existing frameworks often prioritise market access over local agricultural production, undermining food security efforts. Our policies are Neo-liberal as they often aim to increase interconnectedness through trade. They do not do enough to protect and promote local production and this leaves the nation vulnerable to international market fluctuations. As South Africa confronts ongoing challenges related to food insecurity, policymakers must develop and enact robust legislation that enshrines the right to sufficient food while coordinating efforts across various sectors. Such measures would ensure a more effective and equitable response to the needs of all citizens, ultimately fostering resilience in the face of future challenges.

CHAPTER 5

5. ANALYSIS OF INTERNATIONAL BEST PRACTICES TO PROTECT THE RIGHT OF ACCESS TO SUFFICIENT FOOD AMIDST GLOBAL CRISES

5.1 Introduction

Chapter 4 outlined the legal and policy frameworks in South Africa and analysed their strengths and weaknesses. Chapter 3 also highlighted international law on the right to food that South Africa is party to, as well as some of the measures and required standards. This chapter responds to the weaknesses and shortcomings of the legal and policy frameworks that South Africa has by exploring international best practices and innovative policies, legislative and other measures adopted by various countries to combat food insecurity in the world that are also reliable in times of global crises, such as the war in Russia and Ukraine. By examining these examples, South Africa can enhance its resilience against food scarcity and improve the health and well-being of its population. This analysis will encompass legal and policy measures that other countries have taken, comprehensive food security programmes, strategies for achieving food self-sufficiency, incentives for local production, government subsidies, centralized policy frameworks, nationalized land policies, and innovative agricultural methods. Each section illustrates how South Africa can benefit from these strategies.

5.2 International best practices

5.2.1 Centralized Legal and Policy Frameworks

As highlighted in Chapter 4, the legal and policy frameworks on the right of access to sufficient food are not centralised. One of the best practices to protect the right to food is to have legal and policy frameworks that are centralised and not fragmented. Centralized legal and policy frameworks are crucial for preserving the right to food in South Africa, as they provide a structured approach to ensure food security and accountability. Holness argues that without a comprehensive legal framework, the state cannot adequately fulfil its obligations to ensure food security for all citizens.⁴⁶³ This study also shares the same sentiments with Holness above; it further argues that South Africa should also follow this road. Below are some of the examples that South Africa can learn from.

⁴⁶³ Dave Holness, *The Constitutional Right to Food in South Africa* (2007) <http://hdl.handle.net/10948/844>.

India's National Food Security Act (NFSA)⁴⁶⁴ serves as a robust centralized framework to effectively address food insecurity across the nation's diverse settings. This legislation delineates clear responsibilities for both central and state governments, ensuring that food access programs are implemented efficiently and equitably.⁴⁶⁵ By establishing defined legal frameworks, the NFSA facilitates better coordination among various levels of government, promoting effective resource allocation and minimizing bureaucratic delays.⁴⁶⁶ It delineates clear responsibilities for central and state governments in implementing food access programs.⁴⁶⁷ Establishing defined legal frameworks would facilitate better coordination among various governmental levels, ensuring efficient resource allocation.

China's governance model emphasises strong central oversight over agricultural policymaking and execution.⁴⁶⁸ China's food security laws are centralized, exemplified by the Food Security Law, which ensures a unified approach without the confusion of overlapping policies.⁴⁶⁹ This law mandates that central and provincial governments align their economic and development plans with national food security objectives, preventing the inefficiencies arising from multiple conflicting regulations.⁴⁷⁰ For instance, local governments are held accountable for achieving specific food production targets, which fosters clarity in their responsibilities. This centralized approach enables synchronized responses during crises and aids in achieving self-sufficiency goals.⁴⁷¹

For South Africa, as indicated in Chapter 3, our laws and policies around the right of access to sufficient food are not centralised; emulating aspects of China's centralized model could enhance crisis response capabilities. A coordinated approach among diverse governmental bodies would likely lead to improved policy coherence and more effective implementation of programs to strengthen food security.

⁴⁶⁴ National Food Security Act 2013 (India).

⁴⁶⁵ Ibid.

⁴⁶⁶ Ibid.

⁴⁶⁷ Jean Drèze and Reetika Khera and others, 'Recent Social Security Initiatives in India' (2017) 98 World Development 555.

⁴⁶⁸ Food Security Law of the People's Republic of China (effective 1 June 2024).

⁴⁶⁹ Ibid.

⁴⁷⁰ Ibid.

⁴⁷¹ Jikun Huang and Scott Rozelle, 'Agricultural Development and Policy Before and After China's WTO Accession' (2018) Journal of Chinese Economic and Business Studies 17 23.

5.2.2 Self-Sufficiency in Staple Foods: A growing tradition

While imports may sometimes be unavoidable, reliance on them for a country's essential staples must be avoided.⁴⁷² We may accept a few imported foodstuffs, but staple foods should be wholly produced locally to ensure self-sufficiency in our fundamental sustenance.⁴⁷³ This is a growing tradition internationally as many countries are realising the effects of relying on the international market, which can be unreliable due to its uncertainties. What happens to country A might have effects on country B due to the interconnectedness of the global economy.⁴⁷⁴

In a time of global uncertainties, self-sufficiency in staple foods has become crucial for many nations. Countries producing essential items like wheat, rice, and maize can better shield their populations from international market volatility.⁴⁷⁵ For example, Finland has achieved high self-sufficiency in key staples, producing enough milk and significant domestic pork and poultry.⁴⁷⁶ This focus on local agriculture protects against price fluctuations influenced by geopolitical tensions, such as the Russia-Ukraine conflict.

The war in Ukraine has caused sharp increases in essential commodity prices worldwide.⁴⁷⁷ South Africa, reliant on imported sunflower oil, saw cooking oil prices surge by over 40% in 2022.⁴⁷⁸ In contrast, nations like India and Brazil have invested in local agriculture to maintain more stable food prices.⁴⁷⁹ By cultivating staple crops domestically, these countries ensure that essential food items remain accessible during global crises.

⁴⁷² Dave Holness, *The Constitutional Right to Food in South Africa* (LLM Thesis, Nelson Mandela Metropolitan University 2007)125 <http://hdl.handle.net/10948/844> accessed 12 September 2024.

⁴⁷³ A Pelman, 'Individual Nutritional Self-Sufficiency: A Viable Option in the Present Era' (2024) *Frontiers in Sustainable Food Systems* <https://www.frontiersin.org/articles/10.3389/fsufs.2024.1424879/full>.

⁴⁷⁴ M Cañete, 'Food Self-Sufficiency: Opportunities and Challenges for the Current Context' (2023) *Biomedical Research* <https://biomedres.us/fulltexts/BJSTR.MS.ID.005061.php>.

⁴⁷⁵ Ibid.

⁴⁷⁶ Economist Impact, 'Finland – Global Food Security Index (GFSI)' (2023) <https://impact.economist.com/sustainability/project/food-security-index/explore-countries/finland>. Accessed 26 December 2024.

⁴⁷⁷ Ibid.

⁴⁷⁸ UNDP, 'The Impact of the Ukraine War on the South African Economy' (2022) <https://www.undp.org/sites/g/files/zskgke326/files/migration/za/Policy-Brief---UNDP-SA---The-Impact-of-the-Ukraine-War-on-the-South-African-Economy.pdf> accessed 25 October 2024.

⁴⁷⁹ H Hebebrand and W Laborde, 'The Ukraine War and Rising Commodity Prices: Implications for Developing Countries' (2023) <https://pmc.ncbi.nlm.nih.gov/articles/PMC10015268/>. accessed 28 December 2024.

China aims for food security by focusing on domestic production and self-sufficiency in staple crops like rice and wheat.⁴⁸⁰ The government sets minimum purchase prices to ensure fair compensation for farmers and stabilise market prices during crises. Significant investments in agricultural research also enhance productivity.⁴⁸¹ Japan, despite limited agricultural land, achieves high food self-sufficiency through government support for rice production with price assistance and quotas, stabilising the food supply and supporting rural economies.⁴⁸² South Africa can learn from these examples by promoting local food production and consumption, reducing reliance on imports and supporting local agriculture. Implementing price supports for staple crops could further incentivise domestic production and boost food security.

South Africa urgently needs self-sufficiency in staple foods to mitigate rising global food prices, exacerbated by recent conflicts affecting commodities like cooking oil, maize, and wheat. By investing in domestic agriculture, the country can reduce import reliance, improve food security, stabilise prices, and empower local farmers. Prioritising self-sufficiency is essential for resilience against global uncertainties and ensuring all citizens can access affordable, nutritious food.

5.2.3 Policy Monitoring and Accountability for Food Security

Law is but a parchment, inked with intent, yet monitoring's embrace breathes life into the text; without its watchful gaze, the law lies dormant, a mere whisper in the wind. This simply shows that laws and policies need to be strongly monitored, and the state must, therefore, be held accountable as they have an obligation to promote, protect, respect, and fulfil the right of access to sufficient food.

Many countries have established robust monitoring systems to ensure the effective implementation of food security policies, a practice that contrasts sharply with South Africa, where accountability mechanisms are often lacking.⁴⁸³ In nations such as Brazil, India, and Finland, comprehensive monitoring frameworks have been instrumental in

⁴⁸⁰ S Chen, 'Why Food Security is a Top Priority for China' The Diplomat (December 2023) <https://thediplomat.com/2023/12/why-food-security-is-a-top-priority-for-china/> accessed 26 December 2024.

⁴⁸¹ Ibid.

⁴⁸² Statista, 'Rice Self-Sufficiency Ratio Japan FY 2014-2023' (25 November 2024) <https://www.statista.com/statistics/1038822/japan-food-self-sufficiency-ratio-rice/> accessed 27 December 2024.

⁴⁸³ DPME, 'Implementation Evaluation of the National Food and Nutrition Security Plan 2018-2023' (October 2023) <https://www.dpme.gov.za/keyfocusareas/evaluationsSite/Evaluation%20Reports/Genesis%20DPME%20NFNSP%20Full%20Evaluation%20Report%2002.11.2023.pdf> accessed 8 December 2024.

addressing food insecurity and safeguarding the right to food. These systems not only track the implementation of policies but also engage various stakeholders, including civil society, to ensure that food security measures are effectively executed and adjusted as necessary.⁴⁸⁴

Brazil's National Council for Food and Nutrition Security (CONSEA) exemplifies successful participatory governance by including representatives from both government and civil society.⁴⁸⁵ This collaboration helps monitor food security policies, evaluate their effectiveness, and provide government recommendations. Consequently, Brazil has significantly reduced hunger and malnutrition rates through this inclusive approach.⁴⁸⁶ Similarly, India's Right to Food Campaign employs a robust civil society movement that actively monitors government programs related to food security.⁴⁸⁷ This initiative conducts social audits and utilizes legal mechanisms to hold authorities accountable for their commitments, thereby ensuring that vulnerable populations have access to adequate nutrition.⁴⁸⁸

In contrast, South Africa's policies on food security exist but often lack effective monitoring and accountability systems. While the country has frameworks in place aimed at addressing food insecurity, there is insufficient oversight to ensure that these policies are implemented effectively.⁴⁸⁹ The absence of thorough monitoring means that potential issues such as rising food prices or inadequate access to staple foods may go unaddressed. For instance, during the recent global disruptions caused by the Ukraine-Russia conflict, South Africa experienced significant increases in the prices of essential commodities like cooking oil and maize. If there were more robust monitoring systems in place, policymakers could have identified these challenges earlier and implemented timely interventions to mitigate their impact.⁴⁹⁰

Overall, effective policy monitoring and accountability mechanisms are essential best practices in combating food insecurity. They not only facilitate early identification of potential threats but also enable continuous refinement of food security strategies,

⁴⁸⁴ International Food Policy Research Institute (IFPRI), Global Food Policy Report 2023 (2023)

⁴⁸⁵ IDS, 'Brazil's Return: Towards Zero Hunger (Again)' (2023) <https://www.ids.ac.uk/opinions/brazils-return-towards-zero-hunger-again/> accessed 29 November 2024.

⁴⁸⁶ Ibid.

⁴⁸⁷ Right to Food Campaign India, 'About Us' <http://www.righttofoodindia.org/about-us> accessed 27 October 2024.

⁴⁸⁸ Ibid.

⁴⁸⁹ S Makhanya, 'Cooking Oil Prices Surge Amidst Ukraine Conflict' Mail & Guardian (7 March 2022)

⁴⁹⁰ Ibid.

ultimately contributing to more resilient food systems in the face of global challenges.⁴⁹¹

5.2.4 Lessons from the best- Finland, the global leader in food security

Finland stands out as a global leader in food security, characterized by its innovative policies and comprehensive legal frameworks that prioritise sustainability, health, and resilience.⁴⁹² The country's commitment to reducing food waste, promoting local production, and ensuring access to nutritious food has positioned it as a model for other nations, including South Africa. Finland's holistic approach integrates environmental responsibility with social equity, creating a robust food system that effectively addresses both current challenges and future uncertainties.⁴⁹³

Finland's legal framework supports its food security initiatives through legislation such as the Finnish Food Act⁴⁹⁴ and the National Food Strategy, which emphasise transparency, safety, and sustainability throughout the food supply chain. The Finnish government actively encourages local sourcing and organic farming while investing in research and innovation to develop sustainable agricultural practices. These efforts are complemented by public-private partnerships that redirect surplus food to those in need, thereby tackling both food waste and insecurity simultaneously.⁴⁹⁵ In contrast, South Africa faces significant challenges related to food access and agricultural productivity, highlighting the effectiveness of Finland's integrated policy approach.

The resilience of Finland's food security policy frameworks is evident in its response to global crises such as the Russia-Ukraine war. The country has established a National Emergency Supply Agency that maintains strategic stockpiles of essential goods, ensuring continuity in food production during global crises.⁴⁹⁶ Additionally, Finland's alignment with EU agricultural policies provides financial support for domestic farmers while promoting sustainable practices.⁴⁹⁷ This proactive stance enables Finland to mitigate the impacts of global supply chain disruptions effectively, showcasing a level of preparedness and adaptability that South Africa can learn from in strengthening its own food security frameworks.

⁴⁹¹ United Nations Development Programme (UNDP), Building Resilience: The Role of Local Agriculture (2023).

⁴⁹² Ibid.

⁴⁹³ Ibid.

⁴⁹⁴ Finnish Food Act 297/2021.

⁴⁹⁵ Finland Ministry of Agriculture and Forestry, Food Act 297/2021 (2021).

⁴⁹⁶ European Commission, Finland's CAP Strategic Plan (2023).

⁴⁹⁷ Knuuttila A and others, 'Finland's Food Supply Heavily Reliant on Imports' Yle (5 June 2020).

5.2.5 Comprehensive Food Security Programs

*Brazil's Zero Hunger Program*⁴⁹⁸

Brazil's Zero Hunger (Fome Zero) program, launched in 2003, takes a comprehensive approach to addressing hunger and food insecurity.⁴⁹⁹ This initiative combines social protection measures with agricultural development efforts to create a multi-faceted strategy aimed at eradicating poverty and ensuring food accessibility for all citizens.⁵⁰⁰ A key component of this program is Bolsa Família, a cash transfer system designed to improve the purchasing power of low-income families for essential goods.⁵⁰¹

For South Africa, implementing a similar comprehensive food security initiative could alleviate high poverty rates and food insecurity. A conditional cash transfer programme could empower vulnerable communities by providing them with resources to purchase nutritious foods. Additionally, integrating support systems for smallholder farmers within this framework could bolster local agricultural production and promote rural development.

*India's National Food Security Act*⁵⁰²

Established in 2013, India's National Food Security Act (NFSA) is a significant legal framework aimed at addressing food insecurity in one of the world's most densely populated regions.⁵⁰³ The NFSA guarantees subsidized access to food grains for approximately two-thirds of India's population, providing a vital safety net by making food a legal right.⁵⁰⁴

South Africa could benefit from adopting a rights-based food security model similar to India's NFSA. Creating a legal framework that guarantees food access for all citizens would address immediate hunger and long-term nutritional needs. Developing a robust public distribution system akin to India's could ensure that subsidies are allocated efficiently where they are most needed while minimizing inefficiencies and corruption.

⁴⁹⁸ Javier Bernal and Pernille Sorensen, 'Zero Hunger in Brazil: The Fome Zero Program' (2007) 2 *Poverty in Focus* 9.

⁴⁹⁹ *Ibid.*

⁵⁰⁰ *Ibid.*

⁵⁰¹ *Ibid.*

⁵⁰² National Food Security Act, 2013 (Act No. 20 of 2013) (India)

⁵⁰³ *Ibid.*

⁵⁰⁴ Harsh Mander and others, 'State Food Provisioning as Social Protection: Debating India's National Food Security Law' (2015) FAO.

5.2.6 Local Production Incentives

*Singapore's "30 by 30" Food Security Goal*⁵⁰⁵

Singapore's "30 by 30" initiative aims to produce 30% of its nutritional needs locally by 2030 through urban farming technologies such as vertical farming and aquaculture.⁵⁰⁶ The government supports these ambitions by providing grants and incentives for sustainable agriculture.⁵⁰⁷ South Africa could adopt similar objectives to significantly boost local food production. By fostering urban agriculture and offering incentives for innovative farming practices, South Africa could increase its self-reliance while addressing urbanization challenges. Encouraging community gardens and rooftop farms in cities could also promote healthier eating habits.

This is relevant in South African cities where there is overpopulation in areas like Gauteng province.⁵⁰⁸ People usually leave their fertile land provinces to go and stay in urban areas for job opportunities.⁵⁰⁹ The least that can be done is to use the Singapore strategy in these cities. Singapore has no fertile land compared to South Africa. Therefore, South Africa can achieve this strategy better.

5.2.7 Netherlands' Tax Incentives for Sustainable Agriculture

The Netherlands employs tax incentives to encourage sustainable agriculture and bolster local food production, including reduced VAT for organic products and tax benefits on environmentally friendly agricultural investments.⁵¹⁰ South Africa could implement similar tax incentives to promote sustainable agricultural practices. Providing financial advantages to farmers who adopt eco-friendly or organic farming methods can lead to a more resilient agricultural sector that aligns with environmental sustainability while meeting domestic food demands.

5.2.8 Government Subsidies for Agriculture

*United States Farm Subsidy Program*⁵¹¹

⁵⁰⁵ Harsh Mander and others, 'State Food Provisioning as Social Protection: Debating India's National Food Security Law' (2015) FAO.

⁵⁰⁶ Ibid.

⁵⁰⁷ Paul Teng & Margarita Escaler, 'The Case for Urban Agriculture in Singapore' (2018) 10 NTS Insight.

⁵⁰⁸ Dave Holness, The Constitutional Right to Food in South Africa (LLM Thesis, Nelson Mandela Metropolitan University 2007)125 <http://hdl.handle.net/10948/844> accessed 12 September 2024.

⁵⁰⁹ Ibid.

⁵¹⁰ Jan Willem van der Schans and Esther Veen, 'Urban Agriculture in Developed Economies' (2011) Wageningen University & Research Centre.

⁵¹¹ Anne Effland and others, 'U.S. Farm Policy: The First 200 Years' (2000) Agricultural Outlook 21.

The United States has a longstanding tradition of providing subsidies to farmers as part of its strategy to maintain a stable food supply. These subsidies are distributed through the Farm Bill, which includes direct payments, counter-cyclical payment mechanisms, and crop insurance subsidies.⁵¹² Establishing a targeted subsidy program could stabilise farm incomes and encourage investment in agricultural productivity. By focusing subsidies on smallholder farmers, who often face significant challenges, South Africa could promote equity within agriculture and enhance overall food security.

*European Union's Common Agricultural Policy*⁵¹³

The European Union's Common Agricultural Policy (CAP) is a robust model demonstrating how subsidies can support farmers while promoting sustainable practices. The CAP provides direct payments linked to environmental stewardship initiatives across the EU.⁵¹⁴ South Africa could adopt elements from the CAP by tying government support to sustainable farming practices. Encouraging farmers to implement environmentally friendly methods through financial incentives could improve ecological outcomes while boosting long-term sector productivity.

5.2.9 Climate-Resilient Food Production

Chapter 2 highlights how the war is exacerbating climate change and drought issues, necessitating climate-resilient food production strategies. These methods are increasingly vital for addressing climate challenges and food insecurity. The ongoing conflict in Ukraine intensifies pressures on agricultural systems already affected by droughts. Countries worldwide are adopting innovative practices such as crop rotation, agroecology, and drought-tolerant crops to enhance resilience and ensure food systems can withstand adverse conditions.⁵¹⁵

For example, Mali has successfully implemented climate-smart agriculture by diversifying crops and livestock, which mitigates risks from climate variability and market changes.⁵¹⁶ Precision agriculture and satellite-based irrigation help optimise resource use, enhance productivity, improve water management efficiency, and build

⁵¹² Anne Effland and others, 'U.S. Farm Policy: The First 200 Years' (2000) Agricultural Outlook 21.

⁵¹³ European Commission, 'CAP 2023-27 Overview' (2024) https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/cap-2023-27_en accessed 23 December 2024.

⁵¹⁴ Ibid.

⁵¹⁵ NEPAD, 'Supporting Climate Smart Agriculture – in Africa and Globally' (2023) <https://www.nepad.org/file-download/download/public/16065> accessed 8 December 2024.

⁵¹⁶ Ibid.

resilience against extreme weather.⁵¹⁷ South Africa can learn from these global practices by investing in sustainable farming and crop diversification to enhance agricultural output and ensure food security amid global crises. Secure land use rights for smallholder farmers can empower them to adopt resilient practices, promoting an inclusive agrarian environment. Prioritising climate-smart policies will help South Africa navigate local challenges and global disruptions, securing its food supply for the future.

5.2.10 Government Nationalised Land Policies

Many countries manage agricultural land to boost food security and productivity.⁵¹⁸ For South Africa, similar strategies could be crucial in addressing food security challenges, especially amid global crises like the Russia-Ukraine conflict. By increasing state control over certain agricultural regions, South Africa can focus on producing essential crops for local consumption rather than exports, ensuring citizens' needs are prioritised. This approach could also improve resource management and address land tenure issues for smallholder farmers, helping to build a more resilient agricultural system amid global uncertainties.⁵¹⁹

Cuba's State-Owned Agricultural Land

Cuba's model features extensive state ownership of agricultural land, allowing the government to manage centralised planning effectively while aligning farming methods with national goals.⁵²⁰ While complete nationalisation may not be appropriate for South Africa, exploring models incorporating greater state control over strategic land is worth exploring. This could help prioritise essential crops for domestic use rather than focusing on export-oriented production. This approach would improve resource management and address smallholder farmers' land tenure challenges.

Vietnam's Land Use Rights System

Vietnam's management of state-owned land with long-term land use rights encourages investment while retaining state oversight over land policies.⁵²¹ In South Africa, introducing a system granting secure land use rights could incentivise agricultural

⁵¹⁷ Ibid.

⁵¹⁸ A W D Jansen, 'The Role of Land Reform in Addressing Food Security in South Africa' (2023) <https://repository.up.ac.za/bitstream/handle/2263/25955/04chapter5.pdf> accessed 17 December 2024.

⁵¹⁹ Ibid.

⁵²⁰ Margarita Fernández and others, 'New Opportunities, New Challenges: Harnessing Cuba's Urban Agriculture' (2020) *International Journal of Environmental Research and Public Health* 17(12).

⁵²¹ Peter Chaudhry and P Grimshaw-Meyers and others, 'Do Social Security Policies Reduce Rural-to-Urban Migration? Evidence from Vietnam's Rural Areas' (2010) *Economics Bulletin* 30(3).

investment among smallholder farmers facing tenure uncertainty. Clear land rights would foster sustainable practices while significantly boosting rural productivity.

5.2.11 Reducing Food Loss and Waste: A Global Imperative for Food Security

Reducing food loss and waste is increasingly recognised as a crucial strategy for enhancing global food security, especially during crises like the ongoing conflict between Russia and Ukraine.⁵²² The Food and Agriculture Organization (FAO) estimates that approximately one-third of all food produced globally is lost or wasted, amounting to around 1.3 billion tons annually. This represents a significant waste of resources and worsens food insecurity, particularly in vulnerable regions where access to food is already limited.

To strengthen food security during difficult times, countries can implement effective measures to minimise food loss. These measures may include improving storage facilities, optimising supply chain logistics, and raising consumer awareness about food preservation. Nations like Japan and Denmark have successfully reduced food waste through innovative public campaigns and technological advancements, demonstrating that targeted efforts can reduce waste and increase food availability during crises.⁵²³

In South Africa, the impact of high food prices for essential items like cooking oil, wheat, and maize is particularly acute amid rising inflation and global supply chain disruptions. South Africa is estimated to waste approximately 10 million tons of food each year, which could feed millions of people facing hunger.⁵²⁴ This waste contributes to increased consumer prices and places additional strain on the country's agricultural resources.⁵²⁵ By adopting best practices from countries that have successfully reduced food loss, South Africa could significantly improve its resilience against price volatility and ensure more equitable access to food. For instance, investing in better refrigeration technologies and improving transportation infrastructure could help preserve perishable goods longer, reducing spoilage and waste.⁵²⁶

⁵²² Food and Agriculture Organization, 'Global Food Losses and Food Waste' (2011) <https://www.fao.org/4/mb060e/mb060e00.htm> accessed 21 December 2024.

⁵²³ Food and Agriculture Organization (FAO), 'The State of Food Security and Nutrition in the World 2021' (2021) <https://www.fao.org/publications/sofi/2021/en/> accessed 03 November 2024.

⁵²⁴ World Resources Institute, 'Reducing Food Loss and Waste' (2021) <https://www.wri.org/insights/reducing-food-loss-and-waste> accessed 04 November 2024.

⁵²⁵ Ibid.

⁵²⁶ Kummu et al., 'Global Food Production and Water Use' (2012) <https://www.frontiersin.org/articles/10.3389/fsufs.2021.651476/> full accessed 04 November 2024.

A comprehensive approach is necessary to implement these strategies in South Africa. This could involve establishing partnerships between government agencies, non-governmental organisations (NGOs), and the private sector to launch awareness campaigns focused on reducing food waste and promoting sustainable consumption habits. Additionally, enhancing infrastructure for storage and distribution would be crucial in minimising losses during the transportation and storage phases.

Local governments could incentivise businesses to adopt practices that reduce waste by offering tax benefits or grants for implementing innovative solutions. By reducing food loss and waste, South Africa can improve its food security and contribute to environmental sustainability by alleviating the pressure on water resources used in agriculture, an essential consideration given that agriculture accounts for approximately 70% of freshwater withdrawals globally.⁵²⁷

5.2.12 Other Innovative Approaches to Food Security

Vertical Farming in Singapore

Singapore has embraced vertical farming to amplify local agricultural output even within limited spaces by leveraging advanced urban technologies for maximum efficiency.⁵²⁸ In South Africa, investments in vertical farming could help meet urban food demands while reducing costs associated with transporting rural produce into cities. Fostering partnerships between institutions focused on agri-tech innovation could transform sustainable production methods.

Israel's Water Management Innovations

Israel's advancements in water management exemplify how productivity can be enhanced with minimal water resources, an essential consideration in arid conditions.⁵²⁹ For water-scarce South Africa, adopting efficient water usage strategies similar to those used in Israel could greatly benefit the agricultural sector. Collaborations focused on localised solutions tailored to regional contexts are crucial for ensuring long-term food security.

⁵²⁷ Smart Water Magazine, '5 Ways to Reduce Water Footprint'
<https://smartwatermagazine.com/blogs/cristina-novo/5-ways-reduce-water-footprint-our-food> accessed 04 November 2024.

⁵²⁸ Natalia Brzezinska and Mariusz Golebiewski and others, 'The Vertical Farming as a Response to the Challenges of Modern Agriculture' (2020) Agriculture.

⁵²⁹ A Shalev, 'Israel's Integrated Water Resources Management: A Model for Water Scarcity' (2024)
https://www.galiicol.ac.il/Spotlight/9023/Combating_Desertification:_Israel's_Integrated_Water_Resources_Management accessed 21 December 2024.

5.3 Conclusion

This chapter delved into various international best practices for protecting the right of access to sufficient food, especially in the face of global crises like the ongoing conflict in Ukraine. Examining successful strategies from different countries emphasised the critical role of self-sufficiency in staple foods, effective policy monitoring, comprehensive food security programmes, climate resilience practices and centralised legal and policy frameworks. Focusing on local production helps ensure a reliable food supply and protects nations from the unpredictability of international markets, a reality that has become increasingly important given recent geopolitical tensions.

For instance, Finland and Brazil exemplify how innovative policies and integrated approaches can significantly reduce hunger and improve food access for their populations. Furthermore, the chapter highlighted the urgent need for South Africa to adopt similar strategies to strengthen its food security framework. By investing in domestic agriculture, encouraging local production initiatives, and establishing robust monitoring systems, South Africa can enhance its resilience to local and global challenges. Chapter 6 will give the conclusions and recommendations of the study.

CHAPTER 6

6. CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

Chapter 5 provided a comprehensive examination of international best practices to safeguard the right of access to sufficient food, particularly in global crises such as the ongoing conflict in Ukraine. Chapter 6 presents the conclusions drawn from the study and offers recommendations to enhance South Africa's food security framework. This chapter synthesises findings from previous chapters and provides actionable insights to address the challenges identified throughout the study.

6.2 Overview -towards the study's aim and objectives

This study aimed to examine the implications of the Russo-Ukrainian war on the right to sufficient food in South Africa while identifying shortcomings in existing legal and policy frameworks. The objectives outlined in Chapter 1 were systematically addressed through a thorough analysis of each subsequent chapter, aligning closely with the research questions posed.

Firstly, Objective 1 outlined how the Russo-Ukrainian war has influenced food affordability, availability, accessibility, and quality in South Africa. This objective was addressed comprehensively in Chapter 2, which detailed the disruptions caused by the war on global food supply chains and their direct impact on South African food security. The chapter provided compelling evidence of rising prices for staple foods such as wheat and sunflower oil, demonstrating how reliance on imports exacerbated vulnerabilities during global crises. By illustrating these dynamics, Chapter 2 effectively answered Research Question 1 regarding the effects of international conflicts on local food systems, on food availability, affordability, accessibility and quality in South Africa.

Secondly, Objective 2 sought to examine international law and its instruments establishing the right to food while assessing South Africa's commitments as a signatory. Chapter 3 effectively tackled this objective by outlining key international legal frameworks, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and regional instruments that recognise the right to food. This chapter established a solid foundation for understanding South Africa's obligations under international law, answering Research Question 2 concerning how these laws protect access to sufficient food.

Objective 3 focused on identifying gaps and shortcomings in South Africa's legal and policy frameworks regarding the right to sufficient food. Chapter 4 critically analysed these existing frameworks, revealing significant deficiencies that hinder adequate protection against rising prices and supply chain disruptions exacerbated by global events. It highlighted how current legislation prioritises market access over local agricultural production, undermining efforts to achieve food security. This analysis provided an apparent response to Research Question 3 about what gaps exist within South Africa's legal framework concerning food security.

Finally, Objective 4 examined international best practices for potential policy interventions that could enhance South Africa's approach to protecting the right to sufficient food. Chapter 5 explored various successful strategies adopted by other countries in response to similar challenges. It concluded that adopting policies focused on local production, comprehensive monitoring systems, and integrated approaches can significantly bolster South Africa's resilience against food insecurity. This chapter effectively addressed Research Question 4 by showcasing how lessons learned from international experiences can inform domestic policy reforms. Lastly, this chapter sums up the whole study to give conclusions and recommendations.

6.3 Overview of the chapters of the study

Chapter 1 is the research proposal and it gave the study's structure.

Chapter 2 provided a detailed look at South Africa's food security system, focusing on balancing locally produced food and imports from international markets. This chapter explored how global events, particularly the Russo-Ukrainian war, significantly impacted South Africa's right to access sufficient food. By examining specific food products sourced from Russia, Ukraine, and other affected countries, the chapter assessed the repercussions of the war on food availability, accessibility, affordability, and quality within South Africa.

The findings revealed that the Russo-Ukrainian war has caused severe disruptions in global food supply chains, with particularly harsh consequences for South Africa. The chapter highlighted the delicate balance between local food production and reliance on imports, showing how this dependence makes the country vulnerable during global crises. It detailed how the war has intensified existing challenges, such as drought and the lingering effects of the COVID-19 pandemic, leading to rising prices and reduced access to essential food items.

This situation threatens the nutritional well-being of many households across the nation. Additionally, the chapter discussed how neoliberal policies had driven this reliance on imports. In contrast, these policies may offer some benefits, but they ultimately undermine the constitutional right of access to sufficient food for all South Africans during times of crisis. Addressing these complexities requires a multifaceted approach prioritising local agricultural resilience, equitable access to food, and strategic intervention.

Chapter 3 focused on the role of international law in safeguarding the right to food. It examined various legal instruments that reference this right both explicitly and implicitly. The chapter outlined key international frameworks such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and regional instruments like the African Charter on Human and Peoples' Rights.

The analysis concluded that robust International legal and policy frameworks exist to protect this fundamental right, even during global crises like the Russo-Ukrainian war. However, it raised important questions about whether South Africa is doing enough to uphold these domestic standards. The chapter emphasised that while international instruments provide clear guidelines for protecting food rights, their practical implementation within South Africa remains uncertain. This gap highlights a pressing need for South Africa to align its domestic policies with its international commitments. By setting this context, Chapter 3 paved the way for Chapter 4, which then delved into a thorough examination of South Africa's legal and policy frameworks to identify gaps and shortcomings in their response to global crises affecting food security.

Chapter 4 provided an in-depth analysis of South Africa's legal and policy frameworks regarding access to sufficient food. Building on insights from Chapter 3 about international protections for food rights, this chapter critically evaluated existing domestic legislation and policies to ensure food security in light of global crises such as the Russo-Ukrainian war. It began with an overview of relevant constitutional provisions and legislative measures to safeguard this fundamental right.

The findings underscored an urgent need for comprehensive legislation explicitly addressing access to sufficient food in South Africa. Scholars like Khoza and Mokoena have argued that a dedicated legal framework is essential for effectively implementing this right; such a framework would provide clear guidelines and accountability

mechanisms for government action. The analysis revealed that without a centralised legislative approach, the fragmented nature of current frameworks fails to deliver a cohesive response to food insecurity. This inadequacy exposes vulnerable populations to rising food prices and supply chain disruptions exacerbated by global events. Moreover, it was noted that existing frameworks often prioritise market access over local agricultural production, undermining efforts to achieve proper food security. The neoliberal policies in South Africa tend to favour interconnectedness through trade rather than fostering local production capabilities. As a result, policymakers are urged to develop robust legislation that enshrines the right to sufficient food while coordinating efforts across various sectors. Such measures would ensure a more effective and equitable response to citizens' needs and foster resilience against future challenges.

Chapter 5 examined international best practices for protecting the right of access to sufficient food amidst global crises like the ongoing conflict in Ukraine. This chapter built upon previous discussions by exploring innovative policies and strategies adopted by various countries that have successfully addressed food insecurity while maintaining resilience during challenging times. The analysis encompassed a wide range of measures, including comprehensive food security programs, incentives for local production, government subsidies, centralised policy frameworks, nationalised land policies, and innovative agricultural methods.

The findings highlighted that focusing on local production is crucial for ensuring a reliable food supply and protecting nations from the unpredictability of international markets, a reality underscored by recent geopolitical tensions. Countries like Finland and Brazil exemplified how integrated approaches can significantly reduce hunger and improve access to nutritious foods for their populations. The chapter emphasised that South Africa must adopt similar strategies to effectively strengthen its food security framework. By investing in domestic agriculture, encouraging local production initiatives, and establishing robust monitoring systems, South Africa can enhance its resilience against local challenges and global disruptions.

In summary, Chapter 5 reinforced the importance of learning from successful international practices while addressing domestic shortcomings in South Africa's approach to food security. It called for immediate action towards implementing effective strategies that ensure access to sufficient food and promote sustainable agricultural practices capable of withstanding future crises.

This study has provided a comprehensive analysis of how global events, particularly the Russo-Ukrainian war's implications on South Africa's right to sufficient food through various lenses, including legal frameworks, policy responses, and international obligations. Each chapter contributed uniquely to understanding these dynamics while highlighting significant gaps that must be addressed within South Africa's current approach to food security. By synthesising findings from each chapter into actionable recommendations, this study aims to inform policymakers about necessary reforms to enhance resilience against future challenges in ensuring adequate nutrition for all citizens.

Recommendations

6.4.1 Establish Comprehensive Food Security Legislation

The study recommends an urgent need for comprehensive legislation focusing on food security. Currently, South Africa lacks a cohesive legal framework that enforces the right of access to sufficient food as enshrined in the Constitution. The study established that our policies are not centralised; too many policies exist. Additionally, the policy framework was proven to lack monitoring and accountability. The current policy and legal frameworks were proven inadequate, thus not meeting the standard of "reasonable legislative and other measures" required by the Constitution, as proven in Chapter 3.

Establishing a dedicated Food Security Act would provide clear guidelines and accountability mechanisms for government action, ensuring that food security initiatives are effectively implemented and monitored. This legislation should outline the responsibilities of various government departments, set measurable targets for food production and accessibility, and create a framework for public-private partnerships to support local agricultural initiatives.

6.4.2 National developmentalism

National developmentalism is a compelling alternative to neoliberal policies, particularly in addressing the food security challenges highlighted in this study. By prioritising national economic well-being over unregulated market forces, national developmentalism advocates for strategic government intervention that bolsters local production and ensures equitable access to resources. This approach aligns closely with the study's findings, which underscore the vulnerabilities stemming from South

Africa's heavy reliance on food imports, exacerbated by disruptions such as the Russo-Ukrainian war.

By cultivating an environment conducive to the success of smallholder farmers and emphasizing food sovereignty, national developmentalism aims not only to enhance food security but also to foster a more resilient economy capable of withstanding global market fluctuations. Moreover, adopting this framework could significantly improve South Africa's response to food insecurity by implementing supportive policies for local agriculture, reducing dependency on imports, and ensuring that domestic food production meets the needs of its citizens. Ultimately, national developmentalism presents a viable pathway to realizing the constitutional right to sufficient food, promoting social equity, and strengthening the agricultural sector in South Africa.

6.4.3 Promote Sustainable Agricultural Practices (Climate-resilient)

This study recommends that South Africa should promote sustainable, climate resilient agricultural practices. The study outlined in chapter 2 that the war is adding to other existing layers including drought that is driven by climate change. Encouraging sustainable agricultural practices is vital for long-term food security and environmental resilience. The government should implement programmes that promote agroecology, organic farming, and conservation agriculture among local farmers. Providing education and resources on sustainable practices will not only enhance productivity but also protect natural resources, ensuring that future generations have access to sufficient food.

6.4.4 Recommendation for Food Self-Sufficiency in Staple Foods

To enhance food security in South Africa, especially amid the ongoing Russia-Ukraine conflict, this study recommends adopting a strategy akin to Finland's focus on self-sufficiency in staple foods. South Africa's reliance on imports for essential products like sunflower oil and wheat exposes it to global supply chain disruptions and price fluctuations. Increasing domestic production of these staples can foster resilience and ensure a stable food supply. This involves investing in local agriculture, supporting farmers with resources and technology, and implementing policies that promote key crop cultivation. Learning from Finland's success in high self-sufficiency can further strengthen South Africa's agricultural sector. By prioritizing local production, South Africa can reduce its dependence on imports and enhance food security during global uncertainty.

6.4.5 Reducing Food Loss and Waste

To improve food security in South Africa, it is vital to implement strategies that address the estimated 10 million tons of food waste produced annually. This waste intensifies food insecurity, raises consumer prices, and strains agricultural resources. Key measures include enhancing storage facilities, optimizing supply chain logistics, and promoting consumer awareness of food preservation. Learning from successful initiatives in countries like Japan and Denmark, South Africa can adopt effective public campaigns and utilize technology to reduce waste. Collaborations among government agencies, NGOs, and the private sector will be crucial for promoting sustainable consumption. Furthermore, investing in better refrigeration and transportation infrastructure can extend the shelf life of perishable goods, decreasing spoilage. By focusing on reducing food loss and waste, South Africa can improve food security and support environmental sustainability.

6.4.6 Nationalised Land Policies to Strengthen Food Security

To effectively tackle food security issues in South Africa, particularly in the context of global challenges like the Russia-Ukraine conflict, the government should consider implementing nationalized land policies that increase state control over agricultural land. South Africa has about 122.3 million hectares of land, but only around 11% is suitable for farming, with much of it owned by a small number of commercial farmers, primarily white. This unequal distribution of land ownership poses significant challenges for smallholder farmers and restricts the country's ability to cultivate essential crops for local consumption.

By enhancing state management of agricultural areas, South Africa can focus on producing staple foods for domestic needs rather than primarily catering to export markets. This strategy would not only improve resource management but also help resolve land tenure issues faced by small-scale farmers. Drawing inspiration from successful models in countries like Cuba and Vietnam, South Africa can create a framework that promotes local agricultural investment while ensuring that farming practices align with national food security objectives. By pursuing these initiatives, South Africa can move towards greater self-sufficiency in food production and ultimately enhance food security for all its citizens.

6.4.7 Recommendation for Local Production Incentives Inspired by Singapore

South Africa should consider a strategy that promotes local food production, similar to Singapore's ambitious "30 by 30" initiative to improve food security and lessen reliance on international markets. This programme aims for the country to produce 30% of its nutritional needs locally by 2030, utilizing innovative urban farming techniques such as vertical farming and aquaculture. South Africa can enhance urban agriculture, particularly in densely populated regions like Gauteng province by establishing clear targets for local production of staple foods. The government could play a crucial role by offering grants and incentives to support sustainable farming practices, as well as encouraging the development of community gardens and rooftop farms. These initiatives would not only help promote healthier eating habits but also address the challenges posed by urbanization. Given that Singapore lacks fertile land, South Africa has a significant advantage in pursuing these goals more effectively.

6.4.8 Recommendation for Tax Incentives to Encourage Sustainable Agriculture

In addition to promoting local food production, South Africa should implement tax incentives designed to support sustainable agricultural practices, taking cues from the Netherlands. This country effectively uses reduced VAT on organic products and tax breaks for environmentally friendly agricultural investments to motivate farmers toward sustainability. By introducing similar tax incentives, South Africa can encourage farmers to adopt eco-friendly and organic farming methods, which would strengthen the local agricultural sector while meeting domestic food needs. Offering financial benefits to those who embrace these practices will not only boost food production but also contribute positively to the health and sustainability of the agricultural landscape in South Africa.

6.5 General conclusion

This study has mapped the effect of the war between Russia and Ukraine on South Africa's capacity to provide access to a sufficient diet, revealing deep vulnerabilities within the country's food systems. The research shows that international crises like this war enhance existing challenges like increased cost of food, supply chain disruption, and the reliance on imported staples like wheat and sunflower oil. These are the vulnerabilities that expose the weaknesses of the food systems of South Africa that are influenced by policy that is driven by the desire to access the market at the expense of deepening the strength of the country's agricultural sector. The study has shown

how the legal and policy frameworks does not meet the reasonable standard that is required by the Constitution and Constitutional court cases on realisation of human rights. The research has stressed the imperative of immediate legal reform to strengthen the weaknesses that have resulted to ensure that the constitutional access to a sufficient diet is guaranteed at all times, including times of international crisis.

Drawing on the lessons of nations like Finland, Brazil, and Singapore, this research provided practical solutions to enhance South Africa's food security. These solutions included promoting increased indigenous food output, embracing sustainable agriculture strategies, lessening the loss of food, and effectuating land policies that favor small-holder farmers. Food security is a call that needs a multi-sector approach that entails comprehensive legislation, government intervention, and engagement with the private sector. Resolving the challenges is imperative not merely to satisfy the requirements of the constitution but also to develop the resilience to withstand potential global upheavals.

6.6 Areas of Future Studies

While this research is informative regarding the effect of the Russian Ukrainian war on the right of access to sufficient food, areas must be researched to a larger extent. Future research can encompass the best way small farmers can be supported to have a greater impact on the internal supply of the country. It will encompass the way government support can reduce the importing while stabilizing the internal farming systems.

Additionally, further research could look into the interaction between the issue of climate change and the issue of food security within South Africa. Climate-related problems like drought enhance the impact of international crises on the supply of food according to this research. Exploring innovative and climate-resilient approaches to farming that can scale nationally would supply key information about designing a sustainable and secure food system that can serve the needs of coming generations.

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